

BOARD OF MAYOR AND ALDERMEN

September 2, 2003

7:30 PM

Mayor Baines called the meeting to order.

The Clerk called the roll.

Present: Aldermen Gatsas, Guinta, Sysyn, Osborne, Pinard, O'Neil, Lopez,
Shea, DeVries, Garrity, Smith, Thibault, Forest

Absent: Alderman Wihby

CONSENT AGENDA

Mayor Baines advised if you desire to remove any of the following items from the consent Agenda, please so indicate. If none of the items are to be removed, one motion only will be taken at the conclusion of the presentation.

Minutes Accepted

- A. Minutes of meetings held May 6, 2003 (two meetings), May 20, 2003 (two meetings), and May 28, 2003.

Approve Under Supervision of the Department of Highways

- C. Pole License Petitions:
 - (1) PSNH Pole Petition 11-986 for a pole located on Hold Avenue.
 - (2) Verizon New England & PSNH petition for conduit, buried cable and associated pedestals on Sylvan Lane, Acorn Circle, Pondview Circle and Countryside Blvd.

Informational – to be Received and Filed

- D. Communication copy from City Clerk advising of a grant application submitted to the Norwin S. and Elizabeth N. Bean Foundation for funding of a project historian to research and write a study booklet on the political history of Manchester from 1935 to 1981; such application will be withdrawn if so ordered by the Board (submitted by Clerk to meet the deadlines of grant application).
- E. Communication from Boys and Girls Club of Manchester thanking the Board of Mayor and Aldermen for helping make a difference through it's civic contribution to defray the cost of the business license fee for its benefit event.
- F. Communication from Comcast submitting a check in the amount of \$261,550.74 for the franchise fee in accordance with the agreement with the City.
- G. Communication from Comcast regarding upcoming channel changes. To become effective on or about the week of September 3, 2003.

- H.** Communication from Ronald Ludwig, Director of Parks, Recreation and Cemeteries providing a CIP Projects Update.
- I.** Communication from Manchester Transit Authority submitting minutes of the June 23rd Commission meeting as well as Financial and Ridership Reports for the month of June 2003.
- J.** Communication from New Hampshire Department of Environmental Services advising of an upcoming solid waste conference entitled “Safe and Sound”.
- K.** Communication from New Hampshire Department of Transportation submitting contemplated awards.
- L.** Minutes of the August 7th meeting of the Piscataquog River Local Advisory Committee.

REFERRALS TO COMMITTEES

COMMITTEE ON FINANCE

- N.** Resolution:

“Authorizing the Finance Officer to effect a transfer of Two Thousand Dollars (\$2,000) from Contingency to Civic Contribution.”

REPORTS OF COMMITTEES

COMMITTEE ON ACCOUNTS, ENROLLMENT & REVENUE ADMINISTRATION

- O.** Advising that it has accepted the City’s monthly financial statements for the one month ended July 31, 2003 and is forwarding same to the Board for informational purposes.
- P.** Advising that it has accepted the following Finance Department reports:
 - a) department legend;
 - b) open invoice report over 90 days by funds;
 - c) open invoice report (all invoices for interdepartmental billings only);
 - d) open invoice report (all invoices due from the School Dept. only);
 - e) listing of invoices submitted to City Solicitor for legal determination.and is submitting same for informational purposes.
- Q.** Advising that it has reviewed Ordinance Amendment:

“Amending Section 92.25 Annual User Fees of the Code of Ordinances of the City of Manchester.”

and recommends same be referred to the Committee on Bills on Second Reading for technical review.

COMMITTEE ON LANDS AND BUILDINGS

- S.** Recommending that in accordance with 80:80 the Mayor be authorized to dispose of certain property situated at 450 Merrimack Street, known as Map 0031, Lot 0007 by executing a deed releasing all rights, title interest, or claims in said property. Said property formerly owned by Van and Norma Champagne was acquired by the City of Manchester by virtue of Tax Collector's deed dated October 5, 2001 and recorded in the Hillsborough County Registry of Deeds on October 11, 2001, Volume 6502, page 2535. The Committee finds such property to be surplus to City needs, as reported by the Planning Director, and recommends that said property be disposed of through public auction with a minimum bid to be set at \$45,000, a price deemed reasonable by the Board of Assessors. The Committee further recommends that the Tax Collector and City Solicitor be authorized to proceed with disposition of said property and prepare such documents as may be required; and that the Finance Officer be authorized to credit tax deed accounts as deemed necessary.
- T.** Recommending that in accordance with 80:80 the Mayor be authorized to dispose of certain property situated at 218 Pine Street, known as Map 0068, Lot 0032 by executing a deed releasing all rights, title interest, or claims in said property. Said property formerly owned by Guy Frank Forgione was acquired by the City of Manchester by virtue of Tax Collector's deed dated October 5, 2001 and recorded in the Hillsborough County Registry of Deeds on October 11, 2001, Volume 6502, page 2537. The Committee finds such property to be surplus to City needs, as reported by the Planning Director, and recommends that said property be disposed of through public auction with a minimum bid to be set at \$10,000, a price deemed reasonable by the Board of Assessors. The Committee further recommends that the Tax Collector and City Solicitor be authorized to proceed with disposition of said property and prepare such documents as may be required; and that the Finance Officer be authorized to credit tax deed accounts as deemed necessary.
- U.** Recommending that in accordance with 80:42 and/or 80:80 the Mayor be authorized to dispose of certain property situated at Pennsylvania Avenue, known as Map 0240, Lot 0005 by executing a deed releasing all rights, title interest, or claims in said property. Said property formerly owned by Outlook Co c/o Samuel C. Tarrant was acquired by the City of Manchester by virtue of Tax Collector's deed dated November 19, 1968 and recorded in the Hillsborough County Registry of Deeds on November 19, 1968, Volume 2007, Page 0002. The Committee finds such property to be surplus to City needs, as reported by the Planning Director, and recommends that said property be disposed of through public auction with a minimum bid to be set at \$15,000, a price deemed reasonable by the Board of Assessors. The Committee further recommends that the Tax Collector and City Solicitor be authorized to proceed with disposition of said property and prepare such documents as may be required; and that the Finance Officer be authorized to credit tax deed accounts as deemed necessary.

COMMITTEE ON TRAFFIC/PUBLIC SAFETY

- X.** Advising that a request to use the Federal Building parking lot on Sunday, October 5 for the 50th annual Fire Prevention Parade and Muster has been granted and approved under the supervision of the City Clerk, Fire, Highway, Police, Traffic and Risk Departments.
- Y.** Recommending that regulations governing standing, stopping, parking and operation of vehicles be adopted when duly advertised.
- Z.** Recommending that in response to a proposed traffic calming measure study done at Southern New Hampshire University, the City adopt a 20-MPH speed limit in the vicinity of River Road from the Derryfield School to the Hooksett line.

Note: referral of ordinance to Committee on Bills on Second Reading

- AA.** Advising that it has reviewed and approved an ordinance permitting a speed limit of 10 MPH in service alleys in the City and recommending same be referred to the Committee on Bills on Second Reading for technical review.
- AC.** Advising that a request to use Arms Park on September 6 & 7, 2003 for the First Annual Mill City Festival has been granted and approved under the supervision of the City Clerk, Fire, Highway, Police, Traffic and Risk Departments.
- AD.** Advising that a request to use the Pine Street parking lot at the Federal Building on September 27, 2003 for the annual "Give-Away-Day" event of the Manchester Church of Christ has been granted and approved under the supervision of the City Clerk, Fire, Highway, Police, Traffic and Risk Departments.

Accept and Remand Funds for the Purpose Intended

- AE.** Receipt of \$660.94 from Hannaford Food and Drug towards purchasing supplies and equipment for the Drug Abuse Resistance Education Project (DARE98).

HAVING READ THE CONSENT AGENDA, ON MOTION OF ALDERMAN O'NEIL, DULY SECONDED BY ALDERMAN SHEA, IT WAS VOTED THAT THE CONSENT AGENDA BE APPROVED.

- B.** (1) Poll to hold a special meeting on August 14th
(Aldermen Wihby, Gatsas, Guinta, Sysyn, Osborne, Shea, DeVries, Garrity and Lopez voted yea; Aldermen Smith, Forrest, and O'Neil voted nay, Aldermen Pinard and Thibault were unable to be reached.)
- (2) Poll to not hold a Special Meeting on August 14th
(Aldermen Sysyn, DeVries, Smith, Thibault, Forrest, O'Neil, and Lopez voted not to hold a meeting; Aldermen Wihby, Gatsas, Osborne, Pinard, Shea voted to hold a meeting; Mayor Baines voted not to hold a meeting.)
- (3) Poll to authorize the Mayor to execute an agreement to provide for up to 10 Vista Volunteers for the Manchester community.
(Aldermen Wihby, Guinta, Sysyn, Osborne, Pinard, O'Neil, Lopez, DeVries, Smith and Forest voting in the affirmative, Aldermen Gatsas Shea, Garrity and Thibault were unable to be reached.)

Alderman Gatsas stated I was wondering if I could get an explanation from the City Solicitor for when an Alderman or if he could show me the ordinance for when an Alderman calls for a special meeting and in the sense that the Mayor can break a tie to cancel a special meeting. Is there anything in the City ordinance that allows that, Mr. Clark?

Solicitor Clark responded it is spelled out in the rules of the Board and in the Charter. It takes a petition of so many Aldermen to be filed with the City Clerk to call a special meeting. It would take the same number to cancel a special meeting. The State statutes give the Mayor the power to vote in the case of a tie and to veto any action by the Aldermen.

Alderman Gatsas asked so that means that any time this Board wants to call for a special meeting it needs a super majority of 10 or the Mayor can veto it. Is that correct?

Solicitor Clark responded no. You have to have a meeting to have a veto. Technically to call a special meeting you have to file a petition under your rules and under the Charter with the City Clerk.

Mayor Baines stated so if there had been eight votes I would have had no role in the vote.

Solicitor Clark stated if they had filed a petition of eight votes you could not veto that correct. There is no meeting going on.

Alderman Gatsas asked so you are saying that is an RSA, a State statute.

Solicitor Clark answered the calling of a special meeting is controlled by the Charter and your rules. The right of the Mayor to vote is governed by State statute.

On motion of Alderman O'Neil, duly seconded by Alderman DeVries it was voted to ratify and confirm the polls.

- M.** Petition to rezone a portion of land on Candia Road, known as Tax Map 478, Lot 8, submitted on behalf of Candia Realty, LLC.

Deputy Clerk Johnson stated the Clerk would advise that the petitioner has requested that this item be referred to a public hearing at the same time that it gets referred to the Committee on Bills on Second Reading. There is a zoning hearing scheduled already for September 29 and we would like a motion to refer it to that public hearing, as well as to the Committee on Bills on Second Reading.

On motion of Alderman O'Neil, duly seconded by Alderman DeVries, it was voted to refer the rezoning petition to a public hearing to be held on September 29, 2003 and to the Committee on Bills on Second Reading.

Report of Committee on Lands and Buildings

- R.** Recommending that a request from the Greater Manchester Rowing Club asking the City to give or grant the long-term use of 10,000 square foot waterfront lot to them be denied, and further recommending that the subject property previously found by the Board not to be surplus to City needs, be retained by the City at this time for potential residential use in the future.

Alderman Lopez stated I would like to speak to this Committee report for just a second. It is a very tough situation. First of all, let me inform everybody that I do support the Committee's report except for the last portion, which I will get to but this is another item

where the river belongs to us and the committee that came before the Lands and Buildings Committee were not well prepared to answer a lot of questions. I think they learned a lesson that they have to do their homework like for traffic, etc. The point that was brought up about the Fire Department having access to the river because it is a City lot, I am sure that the Fire Department can use it any time they want to. Based on all of the information presented at the Committee meeting that I sat in on, they made the right decision at this time. Again, it's a kids program. It should have access to the river. We do have access to the river at Arms Park and Logue Landing but it doesn't fit the rowing club. Is there some other place in the City of Manchester? I think the Committee has alluded to that. There might be some other place in the City of Manchester that can fit the bill. I would not want to discourage them trying to find a place in the City of Manchester. As I indicated, I do support the Committee except for the last item. I do not know how the last item, which was first of all denied which I support of not giving a long-term lease of 10,000 square feet but it should have ended there where it says the property has not been found surplus to the City. I am told and Mr. MacKenzie you can correct me if I am wrong but there is a debate among some of the Aldermen here whether it is R-1 or R-3 at the present time. What we are doing here with the last sentence is saying it remains residential. I am a little confused on that because I understood that there was going to be a hotel or something put in there at one time or some other type of business.

Mr. Robert MacKenzie stated this particular lot is actually a different lot than the one that was proposed for a hotel. It does have a residential zoning, an R-3. I think the intent of the Committee was not necessarily on the zoning side but to not use it for what they viewed as more of a commercial use, which was the rowing club. I listened at the meeting and I believe their intent was to basically just keep it residential in character.

Alderman Lopez asked so it is residential at the present time.

Mr. MacKenzie answered it is zoned residential, R-3, yes.

Alderman Lopez moved to accept the report.

Alderman DeVries duly seconded the motion.

Alderman Thibault stated I don't believe that there is a member of this Board who would not like to see something that is going to benefit the children of this City. However, I would hope that this Board also takes into consideration the fact that the people who bought land or houses on that river that are \$200,000 or \$250,000 because they felt they had use of that river to show their kids how to water ski or do whatever...I certainly have nothing against the rowing club but isn't there a better place for them for us to look at. These people who are paying taxes to the City of Manchester for \$250,000 or \$300,000 homes along that river bought those houses or built those houses because they knew that they could have water

skiing for their children or tubing or whatever. If you look at this river in many instances it is not more than 200' across. How do you legally...let's say there are two people, one going down and one going up with a water skier or water tuber and protect those row boats? That is my question. I have no problem with the rowboats but maybe there is a better place to put them. That is all I am saying. I would like this Board to be aware of the taxes that we get from the people who have built these homes there. When they built those homes there were no restrictions on that river. Now we are going to put restrictions on that river? I don't think it is fair. That is my opinion.

Mayor Baines stated by the way I have talked to the Director of Planning about that. There are limited other opportunities, if any, and we are going to continue to explore that.

Alderman Forest stated I think my sentiments are like Alderman Thibault. I don't think there is anybody on this Board opposed to the rowing club or the kids on the river or anybody on the river but giving the property away to build a boathouse there...it is a 60' x 175' lot. The abutters are opposed to it. If they want to row they can row up river or down river. We are not stopping them from rowing. It is just that the property should stay as it is, park land. I am in favor of the recommendation of the Committee.

Alderman DeVries stated I wanted to echo the sentiment of Alderman Lopez because I am on Lands and Buildings and though I did partake in that discussion and agree with most of the report as brought forward. The very end of the report where it is making a reference to residential I did not feel was part of that report that I voted on that evening. I would ask that that be stricken from the report. There was a sidebar discussion that noted that there were other individuals that would like to retain that property and come forward with a second request but I didn't feel that was part of the report that I voted on that evening. I would also note that the fact that this did not pass Lands & Buildings when it was before us does not reflect on the club's ability to do further due diligence and come back before Lands and Buildings if they feel they have a strong presentation. It is not a final action this evening. It is open for them to continue discussions if they wish to gain those traffic issues for that location or just to look at a different location on the lower Merrimack River. I think there has been some confusion that if it was voted down tonight that was the end of discussion. It is not in my opinion the end of the discussion and maybe you would like to weigh in on that Mayor.

Mayor Baines stated I have been around for awhile and items are often times reconsidered including whether we are going to have meetings or not as was pointed out earlier.

Alderman Guinta asked which City staff is going to be...

Mayor Baines interjected Planning.

Alderman Guinta asked just Planning.

Mayor Baines answered well Mr. MacKenzie may want to address that as far as when you are giving an assignment by the Mayor to look at alternatives who might you bring in to that discussion.

Mr. MacKenzie responded perhaps the Highway Department to determine whether there is appropriate access in parking. In this case, the Fire Department has for a number of years looked for a better place to put in their emergency boat and perhaps they can be contacted to see if there could be a dual use.

Alderman Guinta stated my initial thought would be somewhere down near Arms Park. That is a very under utilized area.

Mayor Baines responded it is the water flow that...I don't want to speak for them because I am not a rower but I believe the water flow precludes that area.

Alderman Guinta asked how far north would you have to be.

Mayor Baines answered above the dam.

Alderman Smith stated I have been involved in rowing a little bit because my son rowed in college. I think it is a worthwhile idea. I noticed the comments in Lands and Buildings. They said there were a couple of parcels of land that the Water Works Department owns and I was wondering if anybody has looked into that.

Mr. MacKenzie responded we haven't actually looked at any sites ourselves. We do know that the Water Works owns some properties up along the stretch of the Merrimack that they are probably not going to use after some discussions with Tom Bowen so we could put that on the list to take a look at to see if there might be any use for it.

Alderman Smith stated I really think it is important to these youngsters and these people in the rowing club and I would certainly appreciate it if you could look into it immediately. Thank you.

Alderman O'Neil stated it is my understanding moving forward that City staff will be working on this issue and reporting back to you and the Board of Aldermen at some point. Were City staff involved prior to this being brought forward do you know?

Mayor Baines responded I don't believe so. Again, it was based upon a specific request for this parcel of land because there were some indications in the media about the City looking to dispose of property and I think that is what brought it forth from the organization.

Alderman O'Neil stated I am sensing here tonight that there is a very strong willingness by this Board to work with the rowing club to try to identify a parcel that would be appropriate for their activities and support them in that effort so I don't want them...if for some reason a vote does pass to support the committee report I don't want them to leave here and think as Alderman DeVries said that it is a done deal because it is far from a done deal. It just happens to be possibly a done deal for that parcel of land. I know that Mr. MacKenzie will work very hard to try to bring a recommendation to the Board.

Mayor Baines asked is there a motion to amend the committee report to strike the last part stating "The Committee recommends that the subject property, previously found by the Board not to be surplus to City needs, be retained by the City at this time for potential residential use in the future."

Alderman DeVries moved to amend the committee report by striking language "The Committee recommends that the subject property, previously found by the Board not to be surplus to City needs, be retained by the City at this time for potential residential use in the future." Alderman Forest duly seconded the motion.

Alderman Gatsas asked there are two parcels that the Water Works owns. A 16-acre parcel and a 7-acre parcel. They are both on the other side of the river and they are up above in Hooksett. I think that there probably will be a definite problem with this lot with DES because there is a 50' setback from the river as a requirement. The shallowest point on the lot is 60'. I think if you start looking at where you are going to put the rear setback in to put the building on I don't think there is going to be much of a comfort level in being able to put something on that lot, especially with DES's situation with the river where that end of the river has been so thoroughly cleaned. I think that there should be something available with Water Works. I think this Board has certainly expressed the idea that they would work with the rowing club in any way it can to find something that is available. I just don't think that this lot here is going to fit a building.

Mayor Baines called for a vote on the motion to amend the report. There being none opposed, the motion carried.

On motion of Alderman Lopez, duly seconded by Alderman DeVries, it was voted to accept, receive and adopt the report as amended.

Report of Committee on Lands and Buildings

- V. Recommending that in accordance with 80:42 and/or 80:80 the Mayor be authorized to dispose of certain properties by executing deeds releasing all rights, title interest, or claims in said properties as follows:

I. Property situated at Page Street known as Map 0246, Lot 0003.

Said property formerly owned by Outlook Co c/o Samuel C. Tarrant was acquired by the City of Manchester by virtue of Tax Collector's deed dated April 28, 1972 and recorded in the Hillsborough County Registry of Deeds on April 28, 1972, Volume 2208, Page 0273.

II. Property situation at Michigan Ave

Said property formerly owned by Outlook Co c/o Samuel C. Tarrant was acquired by the City of Manchester by virtue of Tax Collector's deed dated February 27, 1973 and recorded in the Hillsborough County Registry of Deeds on March 1, 1973, Volume 2208, Page 0313.

III. Property situated at Michigan Ave

Said property formerly owned by William H Wheeler was acquired by the City of Manchester by virtue of Tax Collector's deed dated July 12, 1917 and recorded in the Hillsborough County Registry of Deeds on October 11, 1917, Volume 756, Page 138.

The Committee finds such properties to be surplus to City needs, as reported by the Planning Director, and recommends that said properties be disposed of as one package through public auction with a minimum bid to be set at \$60,000, a price deemed reasonable by the Board of Assessors. The Committee further recommends that the Tax Collector and City Solicitor be authorized to proceed with disposition of said property and prepare such documents as may be required; and that the Finance Officer be authorized to credit tax deed accounts as deemed necessary.

Deputy Clerk Johnson stated I was asked to note that the reason that Alderman Wihby is not here is because he had surgery today. Also, on this item we have a correction. It is more typographical in nature. Where it says on the first line Lot 0003 it should also say Lot 0006 and Lot 0007.

On motion of Alderman O'Neil, duly seconded by Alderman Pinard it was voted to accept the report with the noted correction.

Report of Committee on Traffic/Public Safety

- W. Recommending that the parking garage contract with Central Parking be extended through January 6, 2004. The Committee advises that it has tabled the RFP process for the operation of the City garages pending a report from staff and decision by the Board regarding the disposition of the Canal Street parking garage.

Alderman Gatsas stated I made a motion maybe two or three months ago that we send out an RFP and I believe it was a unanimous motion to send out an RFP for a parking contract that was not going to cost the City any money. Right now it is costing the City \$2,000/month to

have somebody operating these garages. I don't think that makes sense in the financial times that we are in right now and I don't know why the recommendation had to go to Traffic when this full Board acknowledged the motion.

Alderman Sysyn stated the reason we didn't want to send it out for RFP's is we don't know if we are selling the Canal Street garage. What are you bidding on? Are you bidding on one garage or two garages? That is the reason why it came to us and we decided to wait.

Alderman Forest stated I think one of the things that we asked in Traffic is I guess we were waiting for an appraisal on the garage that was supposed to come back to Traffic. I don't think we have that yet.

Mayor Baines stated that is correct.

Mr. Kevin Clougherty stated there was a vote by the Board to develop an RFP and as the staff was working with the Traffic Director it became evident that there was a lot of conflicting direction out there. We have the request to develop the RFP at the same time we are considering the sale of one of the garages and at the same time we are considering the management of the Center of New Hampshire garage. Also there was some confusion on the part of some of the staff as to whether you were doing the RFP for just the parking structures or whether the direction was to provide for a comprehensive RFP to take a look at management of parking in general, including the standing lots and meters and everything else. In light of that we felt that it was important to come back and get some direction from the Board so the logical place to do that was the Committee on Traffic. So the staff, consisting of the Airport Director, the Solicitor's Office, Traffic Department, and Planning came forward and asked what it was that the Board thought made sense moving forward given all of these different options. The discussion came back to extend the contract through January and provide time for some of these other issues to be taken care of. For example, receive the appraisal from one of the garages and make a decision on Canal Street. We could then do the RFP to decide whether it is going to be for one garage or several garages. The other piece with respect to should this just be for the garages or be a broader comprehensive submission gets to a more complicated RFP and would take a little bit more time. I think the staff was looking for some direction from the Board in this regard and we would be happy to proceed once we have that direction.

Alderman O'Neil stated I support the staff's recommendation based on what Kevin just described. Are we going out for one garage or are we going out for two garages and all municipal parking lots and on-street parking? I am not clear on that and I certainly understand that the staff is not clear on that. I think they are looking for some direction and I think this is the proper action to take.

Alderman Garrity moved to accept, receive and adopt the report. Alderman Thibault duly seconded the motion.

Alderman Gatsas stated I think the motion I made was pretty clear. I think that we put an RFP out there that allows anyone and if we so structured it to bid on the operation of one garage or two garages or three garages because the City is thinking about selling them. I don't think that would be difficult but we are losing \$2,000/month in revenue for waiting. That is going to be another four months that we are going to waste before we get an RFP out and it will be another three months before we make a decision. I don't know what the difficulty is in going out with an RFP and asking people to bid on all three of them but telling them that they may only get one or two. I don't think that is a difficult proposal for anybody to put out an RFP. I don't think we should be losing money while we are doing this.

Alderman Lopez stated I agree with Alderman Gatsas that this has been going around for a long time but I don't think we have a choice now because nothing has been done. How long does it take to get an appraisal on the Canal Street garage? When is that going to come in? That was very important in some of our previous conversations. I don't know who can answer that question.

Mr. MacKenzie responded I do know that we received some information back. I am not sure if Jane Hills has any updates but we had requested that the appraiser do all three methods. The first draft that we got back from the appraiser only had the one method so we had to send it back to get all three methods of appraisal.

Alderman Lopez replied I know but how long does that take.

Mayor Baines asked do we have a timeline on that.

Alderman Lopez asked is the guy out of town or does he live in town.

Mr. MacKenzie answered the appraiser is out of Nashua and I don't know what the timeline is to get it back. I wasn't at that particular meeting.

Mayor Baines asked could we follow-up on that tomorrow and get something out to the Board tomorrow on that.

Alderman O'Neil stated I don't necessarily disagree with Alderman Gatsas but I think this Board also needs to give some direction. There was discussion about whether lots need to be included in the RFP or does on-street parking need to be included in the RFP. I think that is what staff is asking for. They are looking for some direction from this Board or is it limited to the two garages.

Alderman Gatsas responded my motion was just the garages.

Alderman O'Neil asked the two garages.

Alderman Gatsas answered I think there are three under management.

Alderman O'Neil stated I don't think we can do anything with the third garage.

Mayor Baines called for a vote on the motion. The motion carried with Alderman Gatsas being duly recorded in opposition.

Report of Committee on Traffic/Public Safety

AB. Recommending that:

- the current Center of New Hampshire Parking Garage Operating Agreement be extended until January 1, 2004;
- that amendments to language in the contract be made regarding the 50/50 revenue split for Verizon event parking stating that the Center of New Hampshire shall collect and retain revenues collected, forwarding payment to the City for its share the following business day, and allowing the Center to deduct any amounts owed by the City from such revenues;
- that the proposed amendments provide for auditing by the City under supervision of the Finance Officer; and
- that the Finance Officer, Traffic Director, City Solicitor and other applicable city staff go back to the table to negotiate a new operating agreement and bring recommendations regarding such an agreement to the Committee on Traffic.

Alderman Sysyn stated I am in receipt of an e-mail from Joanne Shaffer regarding this item with the Center of New Hampshire garage and I would like to consider her recommendation to send it back to the Traffic Committee.

Mayor Baines asked you are going to send this whole issue back to the Traffic Committee.

Alderman Guinta stated I assume since the Board received a copy of this e-mail about an hour ago it is now considered public information.

Mayor Baines answered that is correct.

Alderman Guinta stated so at the very least we should provide it to the Center of New Hampshire so at least they know what we are now reviewing.

Mayor Baines provided Mr. Sean O'Kane a copy.

Alderman Guinta stated I had asked the Finance Director if there was anything new in Joanne Shaffer's concerns or if there was anything that had not been addressed. As I

understand his comments and I am not going to speak for him and I would like Kevin to speak for himself but there is nothing new. Now somebody, an employee of the Finance Department, is making her personal position known on a policy decision that this Board made. I don't know that there would be a reason to send it back to Traffic. As far as I know we are complying with every law with respect to the recommendation by the Traffic Committee and I continue to support that recommendation.

Mayor Baines responded it is my understanding and again I just got that towards the end of the day today and I didn't realize it was going out as it did and I believe it should have perhaps come through the Finance Office instead. I understand that at the Committee Mr. Clougherty addressed all of these issues. Is there anything new or is it just reiterating the position of the Finance Department regarding this issue?

Mr. Clougherty replied I think it is reiterating the position. As you know, we feel that it is a side step to the appropriation process. We don't think that is a good idea and as the person who is going to be responsible for doing those entries I think Joanne felt that she had to get on the record with that. You know what our position is. I think we have stated them a couple of times.

Alderman Forest stated I agree with Kevin. I was kind of opposed to bullet #2 about the Center of New Hampshire collecting the money and then telling us how much they collect and then giving it to us. I think Finance should be involved and we should have the money.

Mayor Baines asked Sean O'Kane from the Center of New Hampshire to come forward.

Alderman Lopez stated I wonder if as the gentleman is talking here, we could have Tom Clark read this to see if there was anything in what the Committee did and what Joanne is alluding to in this communication. These issues were addressed at the Committee and I would just like to have the City Solicitor review it.

Mr. Sean O'Kane stated I will start with Item 2. We are not proposing any change to what we have currently been doing for the past number of years. The garage staff, which reports to us...in the management contract they are our employees for as long as I have been here I think going back to the original agreement have deposited monies into the City account. What we are proposing under this new agreement is that the same people deposit 50% of those revenues into the City account as they have been and the other 50% to our account so we can avoid the situation we had in the past 18 months of not receiving our share of the revenues. I really don't see a change in the procedure.

Alderman Forest asked could I follow-up on that and have Kevin explain what the City's version is.

Mr. Clougherty stated the procedure over the years has been that the City receives all of those dollars. The point in question is what is going to be the process going forward on this matter. I think everybody on the Board knows our position in the Finance Department that this is a bad deal for the City and we have made that point. As far as the idea that there somehow be a netting of revenues and let me back up and put this in context. There was an agreement approved by the Board about a year ago I believe that said that 50% of the revenues would be paid to the Center of New Hampshire. As part of last year's budget we had to go back...as you know there were two questions. There wasn't an appropriate document in order to have us make that transaction. There was some scurrying at the last minute of the fiscal year to work with people to get a document in place so we could make that transaction happen. The Traffic Department cut its budget and was able to come up with the dollars to make that payment. The current year's budget does not have anything in it to make that payment. So instead of making a payment through the appropriation process, which would be disclosed on all of your financials and see the light of day, what is being proposed here is that the Center be allowed to net the revenues and just give us half of the money coming in. We see that akin to the things that were done with Enron and WorldCom. We are not going to be able to just bypass this approach and bypass the appropriation process. It is not something we have done in the past and it is not something we are going to do now. We feel it is vital that these appropriation processes be followed. Now what would be appropriate is if you agree that the payment should be made to the Center of New Hampshire as part of this agreement then we have got to go back and find those dollars through reductions in appropriations and come up with a way to make that payment but netting that out and trying to say that that is not going to be reflected in your financials some way is erroneous.

Solicitor Clark stated I did also receive a copy of Joanne's memo at about 4 PM today. I went back and read the minutes of the Committee meeting. I agree that there is nothing in Ms. Shaffer's memo that wasn't already discussed at the Traffic Committee. My office was at the meeting represented by Tom Arnold. Tom had advised the Committee at that point that while we understand the Finance Department's reluctance over this kind of a policy change, the Board did make a commitment to do this 50/50 split and without an appropriation in the budget we had to find the best way to do it and these changes are not violating any laws. It may not be the preferable way of doing it but it is a way of handling it.

Mr. Burton Peltz stated I am the attorney for the Center of New Hampshire. I would like to point out that the vote authorizing the 50/50 split was in April of 2002. That was almost a year and a half ago. Secondly, there were meetings held here in December and January at which time we were assured that there would be an appropriation made to cover the shortfall for FY03 and what would be due in FY04. No appropriation was made. That is not the fault of the Center. That is the fault of and I will lay the blame squarely, on Finance which has repeatedly objected to this. Secondly, the Center of New Hampshire has a legal obligation to pay rent to the City for the parking spaces that it leases. It has consistently paid its rent

despite the fact that the City has not paid the Center of New Hampshire. Now from the time the payment was made to the Center in late June of this year until the last meeting, which was held I believe the beginning to the middle of August, at that point another \$7,000 was due the Center of New Hampshire. From that point until today there is another \$6,000 that has become due as the Center's share. That is almost \$13,000 since the end of June. We had asked for and the vote held in August said not only would the 50/50 arrangement with the Center be able to pay the City ½ but that we would also be able to deduct from the rent that we owed to the City the amount of money that had accrued. If we can't deduct that, if we can't keep our 50% what is owed us is going to constantly go up and I am sure you all may recall that the check that was cut to the Center in late June representing almost a year and a half's arrearage was almost \$250,000. So we have been paying our rent while the City was withholding its money to us. That is grossly unfair and it is not what should be done.

Alderman Guinta stated there are just a couple of quick points that I want to make. First of all, there is no appropriation in the current budget to pay the Center of New Hampshire so if we don't pass this agreement in front of us today we will not be making an appropriation to the Center of New Hampshire based on the agreement that this Board, I believe, unanimously agreed to back a year and a half ago. So there are a couple of points. One, the Board made an agreement for a 50/50 split in parking revenue. Secondly, I don't know whose fault it is but there is no appropriation in the budget to send a check on a monthly or bi-monthly or quarterly basis. So, this is an alternative method of payment and if you note it is only to be extended until January 1, 2004. All we are doing is trying to pay them the money that we agreed to pay them. Now the Finance Department has expressed its disagreement not only with the agreement but with this payment policy and I can appreciate Mr. Clougherty's concerns. He has attended...he is here for this meeting and he was here for the last Committee meeting where we took up this issue. What I have a problem with is if we don't agree to the proposal in front of us we are just going to...essentially what we are doing is unless we find revenues in a budget year that is extremely difficult we are not going to be adhering to an agreement that we signed, which is not the way the City of Manchester does business. Absolutely not the way we do business and it shouldn't be the way we do business. So, what the Committee did was at least come up with a reasonable solution. Pay the rest of the expected payment due to the Center of New Hampshire. It is only through January 1, 2004. I don't know what is going to happen at that point. Whether we make an appropriation in next year's budget and then pay them timely, which we don't actually have a record of doing because we didn't pay them for 18 months but I don't know what we are going to do after January 2004. Maybe we will change this. Maybe we will amend it. Maybe we will change our profit. Again, this is only to pay the Center of New Hampshire what we agreed to pay them.

Mayor Baines stated correct. This has been bouncing around in Committee for a year and a half.

Alderman Guinta stated what is frustrating to me is the City...there are a couple of things. I am so passionate about this issue because the Center of New Hampshire is in downtown. It is in my ward. I consider a resident and a business owner a constituent of mine when they are downtown. I feel like this Board has a duty and I have a duty as a representative of that area to talk about their concerns. In this particular issue I support the 50/50 agreement, which this Board supported and I support paying a bill that we agreed to pay. That is all I am supporting. I think we should honor our commitments and in 2004 if we want to change it we have the option to do that but I will tell you we better sit down with the Center of New Hampshire first and make sure that whatever agreement we do hammer out doesn't take 18 months to get paid. I wouldn't like it if someone owed me \$220,000 or in excess of \$220,000 and I wasn't paid for 18 months.

Mr. O'Kane stated I have two points to make. One is we came to a 50/50 split agreement in recognizing that the Center of New Hampshire currently leases 60% of the garage from the City. In trying to determine who is parked in whose spot is very difficult to do if not impossible so to find a compromise we felt that this was a very good way to find a compromise and say we would split it 50/50 and also we share 50% in the additional costs that are incurred as a result of Verizon events. The second point I would like to make is the internal auditor of Mr. Clougherty's office has come and done a thorough investigation of our books and to my knowledge found nothing irregular whatsoever in that investigation.

Mayor Baines stated that is correct and also way back when Mr. Buckley went over there he basically agreed that this was his perspective and I don't want to put words in his mouth but this was the equitable way to deal with this situation as well. That situation is so complex that unless you started putting up walls and barriers in various parts of the garage and saying well this is for the Center of New Hampshire and this is for the City that would be the only way you could even attempt to regulate that and even in that situation you would have the right to 60%. Am I correct?

Mr. O'Kane answered that is correct.

Mayor Baines stated that is why this compromise was struck. Solicitor Clark has indicated that this is a policy decision of the Board and in your perspective, Mr. Clark if they voted on this they would not be violating anything.

Solicitor Clark responded in our opinion they would not be violating the law by passing this. This is one method of taking care of an unfortunate situation.

Alderman Lopez stated just to comment somebody dropped the ball. Somebody was supposed to do this and get the operating agreement done by now. I hope that they get the operating agreement done by January once this passes. The legal interpretation and we do hold the Center of New Hampshire's money...I do support this agreement here

understanding that we have to find the money and that would be up to Kevin to tell us where we are going to get the money and the Mayor to tell us where we are going to find the money to pay them.

Alderman DeVries stated I am hoping that I can hear a little bit more from Finance and Kevin Clougherty. Joanne expressed within her note that you were going to have some difficulties as you go forward next year defining your budget because you would have a...it would be very loose as far as the expenses and the revenues received from the garage. Can you address that?

Mr. Clougherty replied going back the issue that we have is that if there is a payment that is due to the Center of New Hampshire it should be paid as an appropriation and it should be budgeted for as an expense and if there is revenue coming from the garage it should be received as a revenue like anything else. The idea of netting these things out is, I think, the wrong path to go down because you are in a sense saying well we are not going to reflect this expense but we are going to show it off the books if you will. That is always a dangerous precedent to set and it is not one that we think is particularly advisable in this circumstance. The parking garage itself was built by the taxpayers of the City of Manchester with the idea that when that development was going to make some dollars the City would share in the upside. For 18 years there was no payment to the Center of New Hampshire but now that there is some upside in the form of what is going on with the Verizon the taxpayers aren't getting the share but they are giving this money to the Center. I think there is an issue there. The other piece that troubles us is that when this vote was taken by the Board of Aldermen there was no document before them. You adopted a contract but there was no documentation so what we had to do once the Board had made the conceptual approval was to go back and there was no way I could make the payment because there wasn't the appropriate legal document as a basis for that appropriation to be paid. Now we got that done at the end of the last fiscal year and we were able to make the payments that were due up to that point in time. What we have not done and also I believe and there were some members of the Board I believe who at the time that this was approved, this 50/50 sharing, that it was only for the period until a new management agreement could be put in place. It was the expectation that the new management agreement would be in place sooner I think. There was nothing put in the budget for this year. You still have swimming out there the question of the management agreement that still has to be negotiated. So going down this path, we think, is the wrong way. If you feel you owe some money to the City of Manchester you will be paying that as an appropriation. We should have to go back as we have done in the past with Welfare and other places and find those dollars. I realize it is a particularly difficult year but that would be the way to handle it.

Atty. Peltz stated the fact that there was no agreement, I dare say, lies totally with the City. From the time we had our meetings in December and January I had submitted a draft to Tom Arnold and it took until June until we saw something back. Dilatory tactics I dare say. In

the interim we are owed, we were owed almost \$250,000. We didn't ask for interest. We just wanted our money. We were told by you, Kevin, at the meetings that you would get into the budget an appropriation to cover any shortfall for 2003 and a guesstimated amount for 2004. It was only the end of May when I pushed Tom Arnold in discussions with him for a definite answer because I had been told that anything to go into the budget had to be in by April 1, Tom finally admitted to me there had been no appropriation put in. We were misled. We were deceived. Now at this point as I said we are now owed \$13,000. Every event we are owed more money. We pay our rent to the City. The City is not fulfilling its obligation to us. That is blatantly unfair. I have a proposal that I will make right now and that is this. Allow us to withhold rent to the extent of the money owed us. We will pay the City 100% of Verizon event revenues but allow us to withhold the rent and the parking spaces we rent until we recoup our money. I think that is only fair if you do not want to approve what is before the Board now.

Mayor Baines stated right now there is a Committee report. Again, this issue has been back and forth with this Committee over the past year and a half and I feel that the City Solicitor was part of this wording to deal with this issue and I think at this time I would like to ask that we at least get a motion on the floor regarding this report.

Alderman DeVries stated I wasn't done with my line of questioning as well so please come back to me.

Mayor Baines responded we will but I would like to get a motion on the floor.

Alderman Forest moved to accept, receive and adopt the report. Alderman Guinta duly seconded the motion.

Mayor Baines stated I would like Solicitor Clark to respond to the issues just brought up by the attorney for the Center of New Hampshire.

Solicitor Clark stated your Honor I think at one point and Tom Lolicata could address this if you want but I believe he did request an appropriation. I just don't know what happened after that. As for the delay, I personally wasn't involved...I know Atty. Peltz and I have spoken on the phone a couple of times but I believe and my recollection is that the materials were forwarded to the Finance Department to run by Bond Council and it took them awhile to get back to us. That was the delay in the negotiations. You can refresh my memory, Atty. Peltz if you recall something different.

Atty. Peltz responded you are correct. It took Bond Council two to three months to answer what was basically a very simple matter.

Mr. Clougherty stated I would like to correct that. That is not what happened Mr. Peltz. When this Board adopted a policy it did not have...the Committee that negotiated with you had never read all of the documents so Bond Council went back and had to research all of the documents so that we could find out what exactly was the basis for your request. That is what took so long is there had never been a complete set of all of the documents relating to this deal that was brought before the Board. That is what took so long was to do that research and go back and find those documents because the City Solicitor's Office didn't have them, the Traffic Department didn't have them and the Housing Authority didn't have them. So we pulled them all together and that is what took so long. Just to clarify FY03 when I said I would interject and make the payments...as I said I would hold my nose and make the payment, I did that. I did work with the Solicitor's Office and we did get the necessary action by this Board so that payment could be made. With respect to the current year's budget, I did recommend to the Traffic Department that they include that in their budget and they did. Unfortunately during the budget process not everybody gets what they want and that is the prerogative in a tough year of this Board to make sure that sometimes things are not appropriated and I believe that is what happened in this case. It wasn't because I dropped the ball or I somehow deliberately did not fulfill my end of the deal. I have.

Alderman DeVries stated to further define the question here I would like to know how the language is going to be introduced here without a management agreement in place to define the process of how these payments are going to be forthcoming from the Center of New Hampshire – a timeline...unfortunately we have made them wait at times 12 or 18 months. Are we going to be in the same position if we have not set this out in a management agreement and that is not in place if I understand correctly. Maybe staff can respond to that as well as I would like to hear some feedback on their response for withholding the rent until we have that management agreement in place. Do they find that to be an appropriate process?

Solicitor Clark stated I believe the committee report is that the present operating agreement be extended. That is the agreement that will be followed. It will be extended until January 2004. In the meantime an amendment will be made to let them net revenues rather than gross them to the City. During that time period the City and the Center of New Hampshire will be negotiating a new management agreement.

Alderman DeVries responded I think that is exactly my question because the last management agreement certainly didn't reflect the Center of New Hampshire making the 50% payments to us so is there anymore specific language that is being hammered out other than the document before us that says that that will happen. Is there a timeline that is defined? Is there anything else defined other than this one document? Are we being asked to endorse another concept?

Solicitor Clark replied no. You currently have a contract with the Center of New Hampshire calling for a 50/50 split.

Alderman DeVries asked how is that going to be made. That is my question.

Solicitor Clark answered by amending it to allow them to net the revenues rather than gross.

Alderman Guinta stated the question is how are we going to get the money right.

Alderman DeVries replied correct and how long, I mean within 30 days, daily, weekly.

Alderman Guinta responded we went through all of this in committee.

Mayor Baines stated that is the thing that I have to speak to on this issue. This item has been thoroughly, thoroughly studied by that committee. No new information has surfaced in Ms. Shaffer's e-mail this evening. All of these issues have been hammered out in the committee understanding all of the positions. I respect the fact that the Finance Department has a position on this issue. That is why we had the City Solicitor involved with this agreement. To make sure that we could strike an agreement that met our obligations and also followed the law. Now here once again at the end of the day we are going to send it back and rehash the same issues again. We do have a good partner here. I don't think they are trying to do anything but be honorable with us and they have been honorable with us during the time we have had this arrangement with them. I just don't understand why this issue, every time it comes ready to be passed some other...and it is really not any new information that surfaces other than the same objections, which I respect but this Board does have the authority to set policy for the City. Having said that, we can continue the discussion.

Alderman Gatsas stated I understand that maybe there is no new information but I believe there is a lot of new information. There was no appropriation made in the budget to pay these people. That was wrong. This Board should have taken that action and made that appropriation. If we made a payment of \$250,000 and Mr. Peltz if you only waited six months...

Atty. Peltz interjected eighteen months.

Alderman Gatsas stated well you are fortunate. I have been waiting three years for a procurement code change so 18 months isn't bad. If we paid out \$250,000 in June and we made that money come from Traffic and we knew nothing about that being a shortfall because I didn't know that was a shortfall in payment to the Center of New Hampshire. That was never identified to this Board at least and the conversation that I had about a new parking agreement was back in February when this came up when we were at St. Mary's. That is the first time it came up and that is when we said we need to fix the parking

arrangements that we have. Now I understand that the Center of New Hampshire waited 18 months for their money but I think the City waited three years for the increase in the rental figure but that was some \$300,000 that you paid but the motion should be in front of us that we make that appropriation tonight and continue with the agreement the way it has been done. They should be paid on a monthly basis. There is no reason why we should be changing anything in mid stream.

Alderman Guinta stated making the appropriation is exactly what the Board should have done. As I understand it, we can't do that right now. We don't have the ability to create an appropriation half way through the year.

Solicitor Clark responded that is correct. Under our Charter we cannot do a supplemental appropriation unless there are excess revenues that weren't anticipated and they are verified by the Finance Officer.

Mr. Clougherty stated I agree with Alderman Guinta and Alderman Gatsas. We have a contractual obligation to make this payment which should be coming out of the Traffic Department and if there is not sufficient money to cover that in the Traffic Department they are going to have to come back to you and we are going to have to do something to address that either through contingency or some other way. The appropriate way to do it is not to go through a netting of revenues but to go directly through the appropriation process the way we always have.

Alderman Guinta asked may I finish. I think Tom Lolicata had to find money in his budget at the end of the fiscal year to pay the debt owed to the Center of New Hampshire. If you ask Tom Lolicata today does he want to have to do that for the remainder of this fiscal year and into the future fiscal years I gather his answer would be no. Essentially what the Finance Director is saying is that because we didn't make an appropriation in the budget we are going to have to pull from Welfare or pull from Highway...exactly what we did to resolve the issues with Welfare. That is exactly what we are going to have to do in this situation if we take the advice today from the Finance Director, which to me doesn't make sense. Alderman DeVries has a particular question that has not been answered and I suspect that Burt Peltz will answer it and I think it refers to the payment structure and how does the City get paid if it is a net payment. The answer is the first business day after each event so we are actually going to have a revenue stream. Now I understand that Kevin doesn't like the accounting of it but I have to tell you at the end of the year we are not going to have to go to Tom and say can you find \$200,000. The City will actually now have a revenue source payable the first business day following an event. Now I can't see a better deal for the City than that right now and if this Board at some future date wants to address additional issues that this Board feels have not been addressed that is fine but in the meantime we have an agreement that we agreed to and by changing this payment structure we are actually going to see a revenue and

I think...I mean Kevin tell me if I am wrong but at the end of the year this money goes into the general fund or does it go into a different account?

Mr. Clougherty responded it is general fund.

Alderman Guinta stated okay so at the end of the year we are going to have...you know if we owed you \$250,000 then that means we will probably make \$250,000 and we will have an extra \$250,000 versus the situation that we have had this last fiscal year, which was asking Tom to find \$220,000 or \$250,000 or whatever it was. That doesn't make sense to me.

Alderman Shea stated I have a quick question. Kevin, just a simple question. We collect \$10,000 from the Center of New Hampshire. You cannot as things are now there is no appropriation so if they give you \$10,000 and they keep \$10,000 where do you put the money? What do you do with it?

Mr. Clougherty responded if you were to go ahead with the 50/50 split the \$10,000 would go into the general fund.

Alderman Shea stated so basically it would go into the general fund. Therefore, at the end of the year if you are short X number of dollars let's say because you didn't appropriate \$150,000 to cover the appropriation for that, where could you get the money? You couldn't get it out of the general fund. You couldn't get it out...you would have to get it out of some kind of either revenue that was returned to the City or the lack of spending that is done on the part of the departments to cover that shortfall. Is that correct?

Mr. Clougherty responded what we are saying is...

Alderman Shea interjected answer my question. Could you do it either way to cover that particular lack of appropriation?

Mr. Clougherty replied if there were payments to be made to the Center of New Hampshire and we did not have sufficient revenue that came in from the Center of New Hampshire is that what you are saying.

Alderman Shea responded no. The revenue is coming in but you are putting it into the general fund. It is not in any kind of appropriation. At the end of the year you are short because you have not had an appropriation of \$150,000 let's suppose. Can you get that money to balance the books from either revenues that have been underestimated or lack of money spent by department heads that comes in as a surplus to the City? Can you do that?

Mr. Clougherty replied it has to be handled on the expense side. It can't be handled on the revenue side because as you know that has not been appropriated.

Alderman Shea stated so you can get that then from money returned by departments. I say let's...we have been talking about this forever. Let's take a vote up or down.

Mayor Baines responded I agree. Are you moving the question?

Alderman Shea replied I would like to move the question.

Alderman Gatsas asked can you tell me the employees who work at the garage...they used to be on the City's health plan. Are they still on the City's health plan?

Mr. O'Kane answered yes I believe they are.

Alderman Gatsas asked who do they get a W-2 from.

Mr. O'Kane answered through our office.

Alderman Gatsas stated I think we need to...at that point the City is at a grave risk because those employees shouldn't be participating number one with our health plan because if there is a catastrophic illness there and the insurance company comes in they need to be paid and be City employees so that has to change and it needs to change immediately.

Mayor Baines asked can we get a clarification on that. How long has that situation been going on that he just described?

Mr. O'Kane answered for as long as I know.

Mayor Baines asked well are we talking 20 or 30 years.

Mr. O'Kane answered I have been here 7 years.

Alderman Gatsas stated it could be 100 years.

Mayor Baines stated I am just asking the question. Some of us haven't been here 100 years. Has that always been the situation?

Ms. Virginia Lamberton stated this is the first I have heard of it.

Alderman Gatsas stated I just heard another statement that all of the employees in all of the garages are on our health insurance. If that is the case, the City is at great risk because you can't have somebody on a health plan unless he is your employee. If the employee gets a W-2 from the City, then he is considered an employee.

Mayor Baines asked can somebody tell us, Tom, how...I mean you have been around for a long time. How did this become part of the situation with the City? It must go back 20 or 30 years now.

Mr. Thomas Lolicata answered it has been about 25 years. To my knowledge the Center of New Hampshire has been audited twice and as far as the W-2 forms I was under the impression that we pay them and their health benefits are taken care of by that company, Central Parking, for instance. Now Central Parking takes care of their employees and we reimburse them. I am not aware of them being under the City's health plan. That is the contention of all of these contracts.

Mayor Baines stated I am going to refer that matter to the City Solicitor and the Human Resources Director to report back to us within the next few days as to the status of that.

Alderman Gatsas asked are the employees on your worker's compensation or the City's.

Mr. O'Kane answered I believe they are on ours. I will have to clarify that for you but that is my belief.

Mr. Clougherty stated I think the same is true on all of these. They are on the garage company's insurance. What we do is receive an invoice and I think Tom pays that amount after he has taken a look to make sure that the invoices are justified. I will go back and look at that but I believe that is the way it works.

Mayor Baines stated another thing that troubles me is a number of us have been through a number of budget processes here and this issue has never surfaced. How would we have become aware of a situation like this? Okay, we do have a motion on the floor that has been duly seconded.

Mayor Baines called for a vote on the motion to accept, receive and adopt the report. The motion carried with Aldermen DeVries being duly recorded in opposition.

Alderman Gatsas asked is somebody going to let us know within 24 hours about the health insurance issue.

Mayor Baines replied I believe we should be able to turn that information around within 24 hours and get a report out to the Board.

Alderman Lopez stated one of the things here is the operating agreement. Can we have definitely somebody in charge of that to report to the Administration Committee within 60 days?

Mayor Baines responded it would be the City Solicitor.

Alderman Lopez asked can the City Solicitor report back to this Board within 60 days.

Solicitor Clark stated the committee report you just passed calls for the Finance Department, Traffic Department, City Solicitor and other available staff to report back to the Traffic Committee.

Mayor Baines stated well the motion would be that it be done within 60 days.

On motion of Alderman Lopez, duly seconded by Alderman DeVries it was voted that a recommendation regarding the new operating agreement with the Center of New Hampshire be brought to the Traffic Committee within 60 days.

Nominations to be presented by Mayor Baines, if available.

Mayor Baines stated I have one nomination coming before you this evening. We have a labor representative vacancy on the Police Commission. You have a nomination that has been reviewed by the Police Chief. It is recommended that former Police Commissioner Tom Noonan replace Mike Shaughnessy, term to expire September 15, 2006. As per the rules of the Board, this will layover until the next meeting.

On motion of Alderman Forest, duly seconded by Alderman Smith it was voted to suspend the rules and confirm the nomination of Tom Noonan to the Police Commission, term to expire September 15, 2006.

Confirmation of nominations presented August 5th:

Heritage Commission

Kathleen Mirabile to succeed Walter Milne, term to expire January 1, 2006.

Ken Scarpetti to succeed Linda Sirak, term to expire January 1, 2006.

Greg Faltin to fill the unexpired alternate term of Elizabeth Larocca, term to expire January 1, 2005.

On motion of Alderman DeVries, duly seconded by Alderman Pinard, it was voted to confirm the nominations as presented.

Airport Authority

Anthony Pecce to succeed Brian Duplessis, term to expire March 1, 2006.

On motion of Alderman Thibault, duly seconded by Alderman Pinard, it was voted to confirm the nomination as presented.

Police Commission

Nury Marquez to replace Fern Gelinis, term to expire September 15, 2006.

On motion of Alderman Forest, duly seconded by Alderman Lopez, it was voted to confirm the nomination as presented.

Mayor Baines stated we will be inviting Commissioner Fern Gelinas to the next meeting of the Board of Mayor and Aldermen to honor him for his years of service.

On motion of Alderman Thibault, duly seconded by Alderman Pinard it was voted to recess the meeting to allow the Committee on Finance to meet.

Mayor Baines called the meeting back to order.

OTHER BUSINESS

A report of the Committee on Finance was presented respectfully recommending that a Resolution:

“Authorizing the Finance Officer to effect a transfer of \$2,000 from Contingency to Civic Contribution”

ought to pass and be enrolled.

On motion of Alderman Thibault, duly seconded by Alderman DeVries it was voted to accept the report as presented..

Deputy Clerk Johnson stated the Committee on Bills on Second Reading did not meet this evening but there was a communication at the last Board meeting requesting that two items be placed on their agenda. I believe Alderman DeVries is here to address that. We also have a handout.

Alderman DeVries stated I think the first two items before us were a referral from CIP to Bills on Second Reading and there was really no purpose for...these are street discontinuances. They are paper streets. There was no reason that they needed to go to Bills on Second Reading. I would separate the items and ask that the first report of the Committee on Community Improvement be accepted.

Report of Committee on Community Improvement recommending that with regard to a petition to discontinue a portion of Mystic, Myrtle and Shady Lanes, the Board find that subject areas of the petition relating to Mystic, Myrtle and Shady Lanes, having never been opened, built, nor used for public travel in more than 20 years from their initial appearance on the 1919 plan, have been released from public servitude pursuant to RSA 231:51.

On motion of Alderman DeVries, duly seconded by Alderman Shea, it was voted to accept, receive and adopt the report of the Committee on Community Improvement.

Alderman DeVries stated I have a second report of the Committee on Community Improvement, which was also referred to Bills on Second Reading. It is an amendment to an ordinance. This is a parcel of land that I have been working with the owner on for approximately 14 months now. He had bought this tax deeded. It was a non-buildable parcel. It still stands today a non-buildable parcel. At his own peril he is asking that the parcel be separated and that he pursue building one house on this parcel. We have amended the ordinance that went through the Board back in 1996. You will see the amendment to the ordinance at the very bottom of the ordinance that has been passed out tonight. Basically what we have asked for is that there be no further sub-division of this two-acre parcel, that the one building lot that is being separated out not be further subdivided so that we do not end up with four or five homes where their intention is to build just one. That is something that was requested in Committee but we did not have the opportunity to meet and iron that out with Alderman Wihby in the hospital this evening. I think we have been able to cover his intent and I would ask that you accept this report and adopt it as presented or amended.

Ms. Thibault stated we would need a motion to amend the ordinance.

Ordinance:

“Amending an ordinance ‘Authorizing the Mayor to dispose of certain tax deeded property situated at Mystic, Myrtle and Shady Lanes, known as Map #863, Lots 33, 34, 35, 36, 38 and 39.’”

On motion of Alderman DeVries, duly seconded by Alderman Shea, it was voted to amend the ordinance by adding “Subject to the condition that Proposed Lot 2-1 as shown on a plan entitled “Demers Garden Center, Tax Map 504, Lot 2, South Mammoth Road, Manchester, NH” dated July 23, 2003 by True Engineering, not be further subdivided.”

Alderman DeVries stated I would ask one more indulgence and that would be that we suspend the rules this evening so that we can take final action on this.

Mayor Baines asked what would be the requirement.

Ms. Thibault stated you would have to suspend the rules and place the ordinance on its third and final reading without referral to Committees.

Alderman DeVries moved to suspend the rules and place the ordinance as amended on its third and final reading without referral to the Committees on Bills on Second Reading or Accounts, Enrollment & Revenue Administration. Alderman O'Neil duly seconded the motion.

Alderman Guinta asked what would be the reason to suspend the rules. Is there an emergency to get this done.

Alderman DeVries replied as I explained they are going forth at their own peril. They need to go before Zoning for a variance and this needs to be acted on before the Zoning Board can give their final conclusion. We are trying to take care of this so they can go forward with their development for one home. It is a non-buildable lot as it stands today because it has frontage only on an unaccepted City street. The City street receives full City services but it has never been accepted and I think Bob MacKenzie can probably address the unaccepted City Street issue but because it has frontage on an unaccepted City street they need to go before the Zoning Board. We are looking to get this action taken care of.

Mayor Baines stated and also I think this issue has been lingering for a long time.

Alderman DeVries responded well for me it has been lingering for 14 months to try to get them a building permit to build one house.

Alderman Gatsas stated I think the concern that my colleague from Ward 1 had was not necessarily that it not be further sub-divided but that there would be only one unit built on it. That is not what this says. It says that it couldn't be further sub-divided. It doesn't say that they couldn't put a planned unit development there.

Alderman DeVries asked can we address this with the City Solicitor because they drafted the language.

Solicitor Clark replied our office drafted the language this afternoon based upon the understanding that we didn't want it to be sub-divided. We also wanted the condition that only one unit, one residential unit be built on the property. That could be amended into the ordinance.

Alderman DeVries asked so we could further amend that this evening.

Solicitor Clark answered yes.

Mayor Baines asked Attorney Manning to come forward regarding the proposed amendment.

Attorney Manning stated I am the attorney for the Demers Family on this issue. It is an R-1A District. It is our intent to build just one house there with no further subdivision. There is no further subdivision...there is no resistance on our part from what is occurring here. I think the language that is proposed by the City Solicitor's Office will at least be adequate in the sense that it is an R-1A District. I don't know how you are going to build a planned development there in the first place.

Mayor Baines stated I think we can easily take care of that with the amendment as suggested. Do you support that?

Attorney Manning answered yes.

Mayor Baines stated the Clerk is going to lead us through how to do that because we actually have to remove something.

Ms. Thibault stated first you have to take the motion to suspend the rules off the table.

Alderman DeVries withdrew her motion to suspend the rules.

Ms. Thibault stated now we would need a new motion to amend the ordinance with language suggested by the City Solicitor.

On motion of Alderman DeVries, duly seconded by Alderman Shea, it was voted to amend the ordinance to add the following language “Not to be further subdivided, and that said property contain no more than one residential unit.”

Alderman DeVries moved to suspend the rules and place the ordinance on its final reading as amended without referral to the Committee on Bills on Second Reading or the Committee on Accounts, Enrollment & Revenue Administration. Alderman Shea duly seconded the motion.

Alderman Gatsas asked are we amending it.

Alderman DeVries answered it just got amended.

Alderman Gatsas asked so it says only one buildable...

Mayor Baines interjected that is correct.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

Ms. Thibault stated we would now need a motion to read by title only.

On motion of Alderman DeVries, duly seconded by Alderman Pinard, it was voted to read the Ordinance by title only, and it was so done.

“Amending an ordinance ‘Authorizing the Mayor to dispose of certain tax deeded property situated at Mystic, Myrtle and Shady Lanes, known as Map #863, Lots 33, 34, 35, 36, 38 and 39’”.

Attorney Manning asked what if we want to build a garage.

Solicitor Clark answered it is just limited to one residential unit.

Attorney Manning asked so you are not saying just one building.

Solicitor Clark replied you could build a garage. It is one residential unit.

This Ordinance having had its final reading by title only, Alderman DeVries moved on passing same to be Ordained. Alderman Shea duly seconded the motion. There being none opposed, the motion carried.

Request of Alderman Osborne to have a plaque placed at Bruno Square in memory of former Alderman James Clancy.

Alderman Osborne moved to approve the request. Alderman O'Neil duly seconded the motion.

Alderman Osborne stated I don't want to hold up everybody's time this evening but how this all came about was at the corner of Massabesic and Belmont Streets the City had this up for sale or is going to put it up for sale and I took it upon myself to improve that corner because I used to have a lot of cars held there. To make it short, there were large trailer trucks coming up Cedar Street from a business there on Cedar Street, which made it very difficult coming up from Maple Street to that corner, which made it very dangerous at the Wilson Street School. I took it upon myself to do a lot of changes with the help of the Traffic Department. We did get that corner spruced up by adding some shrubs and a couple of benches. Also, Parks & Recreation just recently put a nice big stone there. I had this in the back of my mind for a long time because Alderman Clancy and myself were from that Ward. We lived in that ward all of our lives, going to Bishop Bradley High School and going to the Empire Theatre. I thought it would be a nice thing for this to happen in memory of James Clancy where it was already named Bruno Square. That is about the size of it.

Mayor Baines asked where is the funding coming from for that plaque.

Alderman Osborne answered from myself.

Mayor Baines called for a vote. There being none opposed, the motion carried.

Communication from Leo Bernier, City Clerk, requesting that the Board set the polling hours of the Non-Partisan Municipal General Election on Tuesday, November 4, 2003 to begin at 6:00 AM and end at 7:00 PM.

On motion of Alderman Thibault, duly seconded by Alderman Pinard it was voted to approve the request.

Communication from Deborah Champagne, Makin' It Happen, requesting permission to send Red Ribbon Week Breakfast invitations and red ribbons to city employees with their paychecks.

Alderman Shea moved to approve the request. Alderman Sysyn duly seconded the motion.

Alderman Gatsas asked have we done this in the past putting these things with the employee's checks.

Ms. Lamberton answered actually I don't do that. I stopped adding things because it costs a lot of money. That is 1,300 pieces of paper every time we do it, frankly and I doubt that a lot of people will do much more with it than chuck it. I will put it in the employee newsletter or I will send out a general e-mail to everybody on something. In this instance there is enough lead-time that I will be able to put this in the newsletter.

Mayor Baines asked so you are requesting that the motion be changed to put a communication in the employee newsletter about it. Is that what you are requesting?

Ms. Lamberton replied I would suggest that.

Alderman Lopez stated I seldom disagree with the HR Director but I know for a fact that we have given information out, especially on this particular program in past years with paychecks. The City used to do it all the time. I don't see any major problem here.

Mr. Clougherty responded I think what Alderman Lopez is saying is correct. Over the years there have been items put with the paychecks of the City employees but a lot of that was done before we had e-mail and the ability to contact employees directly through an e-mail process. That is much more efficient as Ginny is saying.

Alderman O'Neil stated I certainly respect Ms. Lamberton's recommendation but it is less than two months before the event. We have done it in the past and if we are going to make a change we should do so with a little more time involved. I would suggest that we approve this particular item. If there is a change that we want to make in what goes with employee paychecks then I think that needs to be addressed but not less than two months before the event.

Alderman DeVries stated I certainly concur that we can make the exception and send this out with the paychecks but at this point in time I would also ask that maybe Ginny Lamberton draft some sort of a proposal to come to the HR Committee outlining a procedure for us to

follow in the future so that we can take the economies available to us and do a little publicity so that others will know.

Alderman Guinta stated I have two questions for the HR Director. When would you normally be putting this in their checks? The issue has been raised that there is not enough lead-time but would you be doing this closer to the date or would you be doing it in September?

Ms. Lamberton responded actually when I first came here I noticed that there was a lot of paper going out every week. It just seemed crazy to me financially to be honest with you. Being an employee also and knowing that when I get a whole bunch of stuff with a paycheck what I do with it and that sort of stuff...how they sent it out or when they sent it out or what their logic was I couldn't answer that question. I just asked why are we sending it out.

Alderman Guinta stated I think...we certainly all support the non-profit entity and the issue itself. I think the most effective way, which is what the HR Director said, is e-mail and the newsletter. My preference is to identify the most effective manner in which to communicate to the City employees and it sounds like e-mail and the newsletter are the two most effective. I think we should do that.

Ms. Lamberton responded the other thing we will do is if we get it in a format from whoever wants it to be publicized we will send it to the department heads, ask them to print it and post it.

Mayor Baines stated I suggest that we pass this and have the HR Director come up with a policy to come before the HR Committee to deal with this in the future. We have a lot of other items to cover tonight and I think we should move on with this one.

Mayor Baines called for a vote on the motion to approve the request. There being none opposed, the motion carried.

Communication from Leo Bernier, City Clerk, suggesting that the Board meeting normally scheduled for November 4th be held on November 5th due to the General Municipal Election.

On motion of Alderman Smith, duly seconded by Alderman Shea, it was voted to hold the first meeting of November on November 5th due to the General Municipal Election scheduled on November 4th.

Communication from Kevin Dillon, Airport Director submitting a report on behalf of the Department Head Financial Structure Review Committee.

Mr. Kevin Dillon stated I think the report is relatively self-explanatory. At the Mayor's request I chaired a group of department heads that consisted of Tom Clark, Kevin Clougherty, Chief Kane, Ginny Lamberton, Bob MacKenzie, Diane Prew, Fred Rusczek and Frank Thomas to review the financial structure of the City as to how finance functions were being handled in various departments. I think general consensus was formed by the group that financial restructuring may lead to greater efficiencies for the City, however, the goal of financial restructuring should be the delivery of optimum financial services in the most effective manner and a determination was made that this may or may not result in cost savings. Before any restructuring effort would proceed though the group would recommend that some considerations be addressed. I think first and foremost is the recognition that each department is unique and has its own special needs as it relates to finances. What happens in one department is not necessarily true in another department. The level of financial services certainly vary from department to department. As a result we are suggesting that consideration be given to testing the concept of financial restructuring on a very limited basis. We have two departments that have volunteered. Although those departments volunteered some time ago I do believe that they are still willing to move forward as test departments but even considering that this would be a limited test in two departments we feel that it is very important that responsibilities be pinpointed. If you are going to hold department heads responsible for the operation of their department that necessarily has to include financial function. We do believe that responsibility needs to be pinpointed as to what the department head will be responsible for and as I said responsible for the overall department operation versus the responsibilities of the Finance Department for the finance process. We also talked about the findings of the Mayor's Select Committee on Finance regarding the issue of how departments work together. We do agree that there is a fair level of distrust that exists between departments and the Finance Department. A lot of that appears to be rooted in the fact that the audit function is housed within the Finance Department. I think that does not allow the Finance Department to provide the level of service in all cases that they are probably capable of providing because they need to maintain that separation for audit purposes. We are also suggesting that the audit function be removed from the Finance Department. Lastly, we think consideration has to be given to the Human Resource implications. I think if any restructuring effort is going to work you certainly need the employee buy-in. I think it is going to be very difficult for the employees to buy-in if there is not a certainty as to what this means for them. We are recommending that the Board adopt a policy that if you move forward with this employees would be assured that there would be no loss of employment. While they could not be guaranteed that their particular job would stay the same, we would like to see a statement made that the employees would be retained. They may be put in an excess pool for a period of time until they can be placed permanently in a department that has a vacancy and during that time in an excess pool would be available to any department to utilize. Generally, those are the findings of the group. As I said, it was very difficult to sit around the table and try to come up with a one size fits all policy. That is why we are recommending a limited test. If you do agree that we should proceed with that as I said there are two departments that have agreed to participate in that

limited test. That would be the Economic Development Department and the City Clerk's Office. We would suggest that you establish the review committee as the steering committee for that test to resolve all of the issues that come up during the testing period. We would also suggest that you do take the necessary action to remove the audit function from the Finance Department as soon as possible and that you do adopt that policy statement that delineates the responsibility between the department head and the Finance Officer and as I said to come out very clearly on the Human Resource implication of a test.

Alderman Shea stated I divided this situation into two different parts. The first part and I think that I want to begin my discussion with the idea of the implication of overtime pay. That is very important and I don't know if the Committee has indicated anything in that regard because that is one of the components as well as others in terms of a restructuring or realignment of departments. The first is the review of the Mayor's Select Committee and I would like to just formulate about four questions in this regard. First of all, will department heads to be impacted by any plan be involved and how, when and by whom will they be involved? That is the first question I formed. The second is...

Mayor Baines interjected can he answer each one.

Alderman Shea stated well I am not sure if he is going to write these down and submit answers in writing but if he wants to answer them he is going to be here for a little while because I have two sheets ready but anyway go ahead.

Mr. Dillon responded certainly the department heads involved would be involved in the formulation. As I said, it was very clear that a one size fits all isn't going to work. I think every department would have to be reviewed department by department to develop what is appropriate for that particular department. That is why I am suggesting that if you do elect to go forward with this test that the group that reviews this function be involved and kind of serve as a steering committee between the Finance Department and the involved department.

Alderman Shea stated my second question is how can they...you hit upon it but would this alleviate the frightening lack of distrust between the City department leadership and the Finance Department by separating the Finance Department into two components, auditing and finance as your Committee has indicated.

Mr. Dillon replied we are recommending that the finance function of the Finance Department be housed separately...the auditing function. I think it just makes good financial practice to do that generally but quite frankly I think what we have seen is it becomes very difficult for the Finance Department to work closely with departments on financial issues because they need to maintain a separation for audit purposes. Picture if the Finance Department is involved in the formulation of certain financial policies or practices within a department but then they are going to be the department that is going to come in and audit that as well. It is

an inherent conflict of interest and I think because they need to step back from time to time sometimes the audit department can provide both levels of services and other times they can't because of that issue. I think that has led to confusion and in some cases distrust.

Alderman Shea asked well would you indicate that there will be a separation in the Finance Department between part of the Finance Department staying together as a financial aspect and part going to an auditing kind of situation distinct from the other. Is that what you are...

Mr. Dillon interjected I would recommend that the audit function in total be separated out and report to another entity. It could be the Board directly. It could be the Mayor's Office.

Alderman Shea stated my third question is will a facilitator be hired to guide the work of any task force or steering committee.

Mr. Dillon responded I, on a test basis, do not see the need for a facilitator. I think we are going to have to work very closely with the Human Resources Department to do desk audits and to evaluate how well it is functioning and certainly at the end of the test we are going to need to sit down with those department heads to determine did they get the level of service they felt they needed from the Finance Department and did it work for the Finance Department as well.

Alderman Shea stated my fourth question in regards to this one report is when you are dealing with Human Resources issues such as reassignments, retraining and possible elimination of jobs when in the process will you be addressing this. After the fact, during the fact or before the fact? In other words how are you going to work that particular aspect out?

Mr. Dillon responded I am not too sure you can make a determination right up front as to what positions or functions could be eliminated. I think that is something that you have to get into and sit with each department to understand. I think what we are trying to get across by what we are saying with the Human Resources implications is that you give an assurance to the existing employees that any reduction in workforce would be done through attrition. That no one would lose employment with the City but rather your job function may change. You would retain employment with the City and I think that would give employees a good sense to buy into this effort and to work along with the impacted departments to make the effort work.

Alderman Shea asked would that happen or occur prior to a restructuring or realignment. In other words that would happen to begin the process rather than halfway through it or at the end of it is that what you are indicating?

Mr. Dillon answered we are suggesting that before any restructuring is done that the Board adopt a policy statement related to this effort that would give that assurance.

Alderman Shea stated the second part of your report, the one that you submitted for the purpose of either realignment or restructuring, the distinct purpose you indicated was to enhance City services and the proposed restructuring or realignment or let's call it consolidating, which may or may not happen, may result in cost savings. My question is might it add more? Is that possibility in existence that instead of saving money more money could be added to the tax base?

Mr. Dillon responded I certainly don't think that is the goal of the effort...

Alderman Shea interjected I am not saying that is the goal but is there a possibility that it might occur.

Mr. Dillon stated I think if there is a finding that there is a better way to deliver financial services that may raise the cost I think that is something that would be brought to the Board for consideration. If the staff felt strongly that the financial services were not being delivered in an effective manner and that by adding additional costs it could be done effectively I am sure that would be brought to the Board for your consideration. I don't think anybody could sit here today and say it would add costs.

Alderman Shea stated now each department has unique needs and characteristics because of the department's responsibility and the commission. Questions that might arise are who will review individual financial needs department by department? Who is going to do this besides the fly that is flying around here?

Mr. Dillon responded I think that is going to be done...what we are saying and that is why we are recommending that this review group stay intact is that through a combination of the Finance Department sitting down with the impacted department along with this financial review come to a consensus as to what particular finance functions should be approached for transfer over to the Finance Department.

Alderman Shea stated we know in any study that the criteria that is drawn up is really what governs the type of study that the results are forthcoming from. Who is going to draw up the criteria for all of the individual needs department by department? Is that going to be done by a steering committee that is distinct from a department head who is directly involved or how is that going to be implemented?

Mr. Dillon responded I think it is going to be done jointly by the steering committee, the Finance Department and the department head that is involved.

Alderman Shea asked would the same criteria be used for each department or would there be the necessity to have different criteria for different departments.

Mr. Dillon answered I think the process will be the same but I do believe that you will see differences from department to department. I think there are some departments that are much more intense as it relates to their financial needs versus other departments and I think that is what we saw right up front. A one size fits all is not going to work and I think a combination of the Finance Department sitting with the impacted department head and the steering committee will have to determine department by department what is appropriate.

Alderman Shea asked what if the department head has a different type of reaction in terms of we will say either the financial implications of...well realignment or restructuring we know what it is, it is consolidating in some instances but if they had a different type of reaction in terms of how much enhancement or how much savings, what kind of weight is that going to be. Is that particular department head going to have a vote or is the task force going to override that person?

Mr. Dillon answered we would like to think it is going to be done in cooperation but certainly if there is disagreement I believe that is going to have to be brought back to the Board.

Mayor Baines asked can I interject. What I would suggest to the Board are two things. One is that you authorize the two departments to go through this process. I just want to make these suggestions and the Board can either accept them or reject them. We are not going to decide all of these issues tonight. I would also ask that you refer the report to the Committee on Administration so we can get it back to the Board and have a thorough discussion. That is what I would recommend.

Alderman Shea stated one point your Honor is if this plan is proposed will questions be answered and can the Mayor design without Aldermanic approval any department's participation. I know that Kevin indicated that two departments have volunteered and I read that – Economic Development and the City Clerk's Office but if we approve this do we give the Mayor permission to go and say next week I want to restructure Department A and Department B or is this limiting it, your Honor, to just this tonight and if you wanted to come forth with a couple of other consolidations as you have mentioned in the past would this Board have to vote on that or does this give you permission to do it without...

Mayor Baines interjected everything has to come back to the Board; everything. You are the policy makers.

Mr. Dillon stated I think what we are suggesting is you try with these two departments, see how well it works and come back to see if it will work in the future.

Alderman Lopez stated I agree with your suggestion on number one but I would also like to include number three because that has been talked about so much that I think we can approve number one and three since we have volunteers from the City Clerk's Office and Economic Development. Before I do anything I would like to ask a question of Mr. Dillon. Your communication says that all department heads were contacted. Did they refuse to come to the meeting or was this a closed meeting?

Mr. Dillon responded no. How the effort was started is I invited all department heads in the City in to hear from the Finance Department and talk generally about the concept. As a result of that meeting there were department heads that I asked to serve on an ongoing committee. There was consultation in the beginning with all department heads. They were given the opportunity to come in and hear directly from the Finance Department and voice their opinion.

Alderman Lopez asked so those department heads such as Parks & Recreation and Tax weren't involved in any of these conversations.

Mr. Dillon answered they were not involved in the ongoing discussions about what you see reflected in this memo here tonight. They were certainly provided with copies of what was going to the Board back a few months ago.

Alderman Lopez stated I don't have any problems with the two departments who volunteered but I think we can also proceed with number three.

Mayor Baines responded well with number three there is a legal issue. The City Solicitor has advised me that to accomplish that that would have to go as a Charter amendment.

Solicitor Clark stated in Manchester there was a special act passed I believe back in 1971 that allowed the combining of the audit and the treasury functions in the Finance Office. To separate them out you are going to have to amend the Charter. I would suggest that if this Board is seriously looking to do that that it be referred to Administration so we can draft a Charter amendment and move forward on it.

Alderman Gatsas stated I think the most important issue that we can look at on this whole draft of recommendations is number five. That says, "the City and School budgets total \$230 million in spending and of this amount approximately 67% is related to payroll and benefits. Each percentage point of savings translates to approximately \$1.5 million. If the City is to realize real savings in operations and achieve fundamental change in the way taxes are controlled, payroll and benefits are the obvious first place to examine." I think that is the issue. The rest is a Band-Aid approach when we start talking about the rest of it and the Band-Aid is not for me. I think that is what they used in there so I think that talking about moving the audit function and seeing if we can do some consolidations...unless we can get

our arms around 67% of the budget we aren't going to make realistic efforts to save any money.

Mayor Baines stated what I would like to ask is that we adopt number one and number two by motion and then also following that refer the entire report to the Committee on Administration for review and recommendation to the Board.

Alderman Lopez asked I have one question on number two. The review committee and steering committee are going to be the same people?

Mr. Dillon answered that is what we are recommending.

Alderman O'Neil moved to approve recommendations one and two as presented. Alderman Osborne duly seconded the motion.

Alderman DeVries stated I just have one question because you certainly addressed how employees who might be affected by the reorganization or realignment would be handled through attrition. Are you also saying that there is going to be preservation of current grade? Was that addressed within the Committee? I understand that we can hammer it out at Committee but I am just wondering...

Mr. Dillon interjected the specifics were not really addressed. I think the intent, though, of what we wanted to achieve is that no one gets hurt by this. There is a potential that a determination could be made that someone would go into this excess pool and that their level would freeze. There would certainly be an effort made to take people from that pool and place them into permanent positions that match.

Mayor Baines called for a vote on the motion. The motion carried with Alderman Smith being duly recorded in opposition.

On motion of Alderman Forest, duly seconded by Alderman DeVries, it was voted to refer the entire issue of the financial structure of the City to the Committee on Administration.

Mayor Baines thanked Mr. Dillon for all of his work.

Communication from Hector Velez requesting permission to encumber the sidewalk in front of his business on 370 Union Street for sales, subject to meeting any other requirements of the City's Code.

Mayor Baines asked do these things normally come to the full Board.

Deputy Clerk Johnson answered it is my understanding that our review in our office indicates that the it is only the Board that can approve this under one of our business license sections.

Alderman Lopez moved to approve the request. Alderman Forest duly seconded the motion.

Alderman Guinta stated as I understand the City ordinance, it sounds like he is requesting to have a sidewalk sale every day of the year. As I understand the City ordinance, you can only do that twice a year. The wording is a little peculiar because he is saying that he would like to adhere to all...well he uses the word code but as I understand the ordinance you can only do this twice a year.

Solicitor Clark stated as I understand it he is not asking for a sidewalk sale. He wants to have tables similar to what they have downtown on the sidewalk and encumber half the sidewalk to allow people to sit.

Alderman Guinta asked what kind of business does he own.

Clerk Bernier answered he owns a variety store.

Mayor Baines asked can any business do that at any time or do they have to get permission.

Clerk Bernier answered the area is zoned. He is one block away from it so for us to give permission we need permission from the Board.

Mayor Baines asked shouldn't this go to Committee. That was my question. We have committees. Why wouldn't something like that initially go to the Committee and then they would make a recommendation?

Alderman Lopez moved to refer this item to the Committee on Administration. Alderman Forest duly seconded the motion.

Alderman Lopez stated they still have to comply with the City code so what is the big problem.

Mayor Baines stated if the Board wants to deal with this tonight it is fine with me.

Alderman Shea stated I thought we had a person who worked in the City Clerk's Office who usually advises the people who are on the Administration Committee in terms of how these procedures work.

Clerk Bernier responded it is our function, our office. Currently under 97.34 there is a zone where they can just come into our office and get a license to do exactly what he is trying to do. It just so happens that this gentleman is one block away from the zone and only this Board can give him permission to do what he wants to do. That is all it is.

Alderman Shea asked so rather than Matt being involved...

Clerk Bernier interjected right that is all he is asking and the sidewalk has been...they did some redevelopment in that area so there is enough space on the sidewalk to address his issue.

Alderman Thibault asked can we request that the zone be extended.

Clerk Bernier answered right but it takes an ordinance to do that. That would be the next step.

Alderman Thibault asked so to do this you would have to increase the zone so anyone in that area could do this.

Mayor Baines stated the City Solicitor is going to advise us.

Solicitor Clark stated the ordinance allows this type of action within the zone. It doesn't address waiving it and I believe you would have to amend the ordinance to do it.

Mayor Baines responded then we should go back and get a language change. Is that what you are suggesting? The Solicitor says that it needs to go back to Administration so that the wording can be changed by ordinance. We have to withdraw the motion.

Alderman Gatsas stated if we start doing this with every business we are going to have businesses that are two blocks away that say we want to change the zone.

Mayor Baines responded that is why we need this to go to Committee. That is what the Solicitor has advised.

Alderman Lopez stated I don't understand why it is here then. If the ordinance is there then the individual should be given a copy of the ordinance and petition to have the ordinance changed. It goes through weeks of this and comes before the full Board and we have to deal with it. That is wrong. It is wrong for the customer out there. Henceforth, if the ordinance stipulates there is a zone and somebody wants to do this and they are outside the zone let's give them a copy and if they want to change the ordinance let them go through the Administration process to change the ordinance.

Mayor Baines responded again I agree that issues such as this should be going directly to Committee. That is why we have the Committees established instead of issues like this coming before the full Board.

Alderman Lopez withdrew his motion.

Alderman Thibault moved to refer the item to the Committee on Administration.

Alderman Gatsas stated shouldn't this be going to the Committee on Bills on Second Reading.

Mayor Baines responded the Solicitor has advised us that...

Solicitor Clark interjected normally this goes through the Administration Committee.

Alderman Lopez duly seconded the motion.

Mayor Baines called for a vote. There being none opposed, the motion carried.

Communication from Barbara Vigneault, Elderly Services Director, submitting a proposed lease option for the 66 Hanover Street location, and noting the need for additional funds to meet the terms of the agreement through the end of the fiscal year.

Mayor Baines asked has this been discussed with the Finance Officer.

Mr. Clougherty replied we just got this today. This is our first time looking at it.

Mayor Baines asked how much are the additional funds, Barbara.

Ms. Barbara Vigneault stated the additional funds needed for the extension of the lease for a one year term would be as it states in the letter \$9,382.80.

Mr. Clougherty stated the only source immediately that comes to mind is contingency. You have a \$178,000 balance on that. We started with \$180,000 and we took \$2,000 for the Babe Ruth team.

Mayor Baines asked so it could come from there.

Mr. Clougherty answered that would be the logical source.

Alderman Gatsas asked how many people do we service right now at that center.

Ms. Vigneault answered on a daily basis there are about 25 to 45 depending on the day.

Alderman Gatsas asked that is every single day.

Ms. Vigneault answered yes.

Alderman Lopez moved to approve the \$9,382.80 because it is going to cost about \$3,000 to move that equipment if we close the center plus we are going to have to find someplace to store it.

Mayor Baines stated the motion would be to appropriate \$9,382.80 from contingency to meet the terms of the agreement to meet the terms of the agreement through the end of the fiscal year.

Alderman Thibault duly seconded the motion.

Deputy Clerk Johnson stated in the first instance I think we need to authorize execution of the proposed lease option understanding that then following that you would transfer the \$9,382.80. You need to authorize that lease agreement first.

Alderman Lopez moved to authorize the Mayor to execute the lease agreement. Alderman Garrity duly seconded the motion.

Alderman Shea asked, Barbara, if the folks were transported to the West Side rather than keeping that open what impositions would be incurred.

Ms. Vigneault answered well we would have to make arrangements with the MTA for transportation or use another private transportation source or people would have to pay privately themselves to get there. That would have to be done to help with the transition. It would be an easier transition if we could renew the lease for a year until the new senior center is built so that we only move once.

Alderman Shea asked there are two types of leases, correct. One is more costly than the other. Could you explain the different leases?

Ms. Vigneault stated the building was just sold. We had a two-year lease and that is expiring October 31. So, they are willing to renew the lease on a yearly basis for one year. That would bring us to a time when the new senior center would be built. They are going to be charging us that one rate that you see in the letter. That is the one-year lease option.

Alderman Shea asked and that will cost what.

Ms. Vigneault answered \$11.25/square foot and we have 5,154 square feet. The new lease extension if you were to approve it would start November 1. That would be the \$15,863 and that is what we would pay for the old rate and the new rate for the next eight months in the fiscal year would be \$38,655.04. That would total your \$54,518.80. That is on the one year lease option. The other option that they are willing to do would be a tenant-at-will and if we do nothing then beyond the November 1 date you would be a tenant at will and that means that they can evict you at any time if they have someone who wants to take the premises.

Alderman Guinta asked how much of an increase is this from the last fiscal year.

Ms. Vigneault answered about \$10,400 roughly.

Alderman Guinta asked so it was over \$40,000.

Ms. Vigneault answered yes.

Alderman Guinta asked was this Red Oaks lease a proposal or did you negotiate.

Ms. Vigneault answered this is...we were trying to get this information sooner but the building was being sold so the new owner was to make that decision. We had to wait until the transaction took place.

Alderman Guinta asked so the new owner sent you this proposal and you have not negotiated with the owner of the new building.

Ms. Vigneault answered that is the Board's...

Alderman Guinta interjected I guess that is my question. Who has the authority to negotiate regarding leases?

Mayor Baines answered it is generally done by the department heads with the owner. Solicitor Clark could advise us if I am wrong.

Solicitor Clark stated generally if a department is looking at leasing space they can't commit the City but they can negotiate with the owner of the property.

Alderman Guinta stated I would request that we try to negotiate some sort of reduction of their proposal. I don't know what the average square foot lease is over there on Hanover but I thought it was less than \$11.25.

Ms. Vigneault responded the rate we are currently paying is \$9.23 a square foot. They are going up \$2.02.

Alderman Guinta asked how much time do we have.

Mayor Baines asked what is the time limit in terms of negotiating a new lease.

Alderman Guinta stated I guess by November 1 right.

Ms. Vigneault replied October 31 is the end of the old contract.

Mayor Baines stated the other thing is that building was just sold at a very substantial price so there may be increases.

Alderman Guinta responded I know but given the fact that is for the elderly and the fact that the owner does a significant amount of business in the City I am wondering if maybe he is willing to reduce the proposal a little bit knowing that we are going to be moving into a new facility anyway.

Alderman Gatsas stated I used 35 people on a daily basis for \$54,000 that is \$6 per day on a 5-day week. I think we can pay for cab fares to get to the West Side if that was used by every single person. It doesn't make sense to spend \$54,000 for that short a time when we can transport people to the West Side. I would assume that of those 35 people 10 of them must drive or come from the Hanover Street high-rise or the Carpenter. It has to be much cheaper to by a vehicle to transport the people than to pay \$54,000 in rent.

Ms. Vigneault responded the other consideration is that the room on the West Side is small and really at capacity now for seniors and the amount of furniture and equipment we have is quite large so we would have to look at some type of storage situation. Just to move I got a free estimate from Mayflower and they said it would be about \$3,600 to pack and move everything so we would have to add that cost in also.

Mr. Clougherty stated I would note that the dollars we are talking about here seem to transpire over two fiscal years as I am reading this. We may have enough in the current year's budget to cover this portion of the lease and I would have to sit down and look at that and maybe we need to appropriate some money for the next fiscal year. Without reading the lease and going back and looking at it what I would suggest is let us meet with Barbara and come back to the next Board meeting with some recommendations on exactly how much might be needed in this fiscal year, what the source of funds is and maybe see if there is some way to talk to this owner.

Mayor Baines asked so we should table this and have them report back at the next meeting.

Mr. Clougherty replied yes. If you give us that time we will go back and look at it.

Alderman Lopez stated I don't mind tabling it. For the future let's have these department heads get together with Finance and everybody else before they come and ask for this then.

Alderman Guinta stated this building, Alderman Lopez, was sold in August I believe. This is the first meeting I think we have had that she has been able to bring this issue to the Board. I think from a timeline she is doing this as quickly as she can. I think the Finance Director's suggestion makes sense and I think the suggestion to try to negotiate some sort of reduction makes sense as well and we will have time at the next meeting to have a report back.

Alderman Guinta moved to table this item. Alderman Thibault duly seconded the motion.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

Alderman Lopez stated the point I would like to make is what Alderman Guinta said might be right but my point is that henceforth if there are leases the department heads should talk to the Finance people and Solicitor's Office before bringing it here.

Mayor Baines responded again I agree and I think the procedure would be that it would go to the Committee and then the Committee would report to the Board. I don't think that matters such as this should be coming to the full Board. That is another point I have. These issues should be worked out.

Alderman DeVries stated I have one question for the Solicitor. Where we have a new owner of this building if they are in the existing lease agreement that is drawn up with Elderly Services if they have any kind of notification such as was going to be put into the new lease agreement where we had a certain timeframe we had to adhere to would they be held to that where it is transferred to a new owner? We keep saying we have until October 31.

Solicitor Clark responded that is correct.

Alderman DeVries stated what I am talking about is if you look at the new lease agreement it showed a notification timeline that they have either to opt to extend or such so are we going to miss any deadlines where there is a new owner in there.

Solicitor Clark responded the general rule is that when an owner buys a building he buys it and assumes the leases as they are. This lease runs I believe until the end of October so he has bought the building based on that lease and he is willing to give another year extension on the lease with a few changes and I think that is what you are asking, Barbara, is to go back and negotiate.

Alderman DeVries stated I have one more question if I could because I think Barbara was agreeing. Are we missing any deadlines to respond to this per the new owner?

Ms. Vigneault responded they are expecting a letter from the City as to the intent.

Mayor Baines stated but we will sit down with the owner of the property and talk through all of the issues. He is a great community participant and I am sure he will sit down and understand our situation. We will talk about doing that tomorrow, Barbara.

Notice for reconsideration given by Alderman Guinta on motion to accept report with changes of Committee on Lands and Buildings regarding RFP's for land on Old Wellington Road.

(Motion having carried with Aldermen O'Neil, Lopez, DeVries, Garrity, Smith, Thibault and Sysyn voting yea, and Aldermen Osborne, Shea, Forest Wihby, Gatsas and Guinta voting nay.)

Mayor Baines asked could you explain this so we understand the process.

Deputy City Clerk responded as I understand it Alderman Guinta had given notice for reconsideration. If he wants to exercise that, the motion would be to reconsider. It would require a second and then a majority of the Board in order to reconsider.

Alderman Guinta stated at the last meeting we had set a minimum bid price of \$750,000 and I think we were discussing an alternative minimum number of \$900,000. At that meeting my position was let's not bid against and let's set it at \$900,000. As I understand it, the RFP went out and we have already received bids. When are they due to be open?

Mr. MacKenzie responded they will be back September 12.

Alderman Guinta stated at this point I don't know that it makes sense for me to do this but it brings up an issue. We just underbid ourselves by at least \$150,000.

Alderman Gatsas stated I guess my question is and this goes back to quite awhile ago in regards to the same thing about making a motion for reconsideration and contracts being signed. This motion of reconsideration was given in a due fashion. Now why that RFP was sent out and this motion of reconsideration not considered I can't give you that answer. Maybe somebody can.

Solicitor Clark responded in this instance there wasn't a motion to reconsider. He gave notice that he may bring it up for reconsideration at the next meeting. The motion still has not been done. You gave notice that you were going to make a motion to reconsider.

Alderman Guinta stated Tom everybody knew that I was going to make a motion to reconsider. Can we at least agree to that?

Solicitor Clark responded yes. I don't know why the RFP went out. I wasn't handling it.

Alderman Guinta asked is there a new practice or policy that we need to institute regarding proposals and signatures of contracts.

Mayor Baines stated that is a legitimate question. If there is a notice of consideration does that automatically stop everything from proceeding as per a vote of the Board?

Solicitor Clark responded legally no but the Board can adopt a policy that it doesn't move forward.

Alderman Gatsas stated I think you said, your Honor...I can remember precisely that this is a question that you and I had because you knew that I was making a motion for reconsideration and the agreement was signed. After that you said that if the motion for reconsideration had been made at that meeting then nothing would have proceeded.

Mayor Baines replied again that is why I am asking the question of the City Solicitor. Do the rules of the Board preclude it and if that is something that needs to be addressed by the Board in the future than that should be addressed?

Solicitor Clark responded the Board can adopt a policy that a department cannot do anything if a notice for reconsideration or a motion for reconsideration is made.

Mayor Baines asked but it would be a change in the rules of the Board is what you are saying.

Solicitor Clark answered no there wouldn't be a change because there is nothing in the rules about it now.

Mayor Baines stated just so I am clear and I agree with what Alderman Gatsas just said that if somebody just gives a notice that would automatically stop something if the Board had a rule to do that.

Solicitor Clark responded if the Board told departments not to do something and it is a directive than departments wouldn't do it.

Mayor Baines stated but when you have a majority of the Board and I forget what the vote was on that issue...

Alderman Guinta interjected it was close. I think it passed by one vote.

Mayor Baines asked so that would stop a majority vote.

Solicitor Clark responded only if this Board voted to direct departments not to move forward until the reconsideration period was over. There is a legally binding vote of the Board.

Alderman Guinta stated I am not looking to hold up City business but in this scenario...I mean I had talked to several Aldermen that evening and since the vote who indicated to me that they would have changed their mind and voted to increase the minimum bid, thereby, potentially creating an additional windfall of \$150,000. That is had the vote been taken tonight.

Mayor Baines stated well we don't know the answer to that question because you could have bids that could be in excess of that.

Alderman Guinta responded they could be but to be smart financially we shouldn't be underbidding ourselves.

Mayor Baines replied well again that is a policy decision of the Board.

Alderman O'Neil stated I certainly agree with what Alderman Guinta said and Alderman Gatsas in this particular case but I would caution against it becoming a blanket policy. We would bring City government to a halt if one Aldermen decided to reconsider a vote. That is very, very dangerous. We have time periods, especially during the summer when we don't meet that often...we could bring City government to a halt. I hope the intent is to not make it a blanket policy at some point.

Mayor Baines responded well nothing has been introduced to do that at this point. I agree with Alderman Guinta that at this point in time we will leave this matter and deal with it at another point in time.

Alderman Guinta stated I have just been informed that we can cancel the RFP and reissue a new RFP. Is that accurate, Tom?

Solicitor Clark responded yes. It is my understanding that the Planning Department issued the RFP and they advised all people who picked up the proposal that it may be cancelled.

Mayor Baines asked would that be fair to the people that you have gone out to...you have advertised the property and asked people to go out and make bids on the property and then all of the sudden we are going to change the rules in midstream.

Mr. MacKenzie stated recognizing that the Board had given us a deadline of October 31 and understanding what it does take to put together a proposal, we believed that if you did wait until this particular meeting to take an action that it would not have occurred in time to be considered for this budget process. We did send out the RFP but we also met with all of the prospective bidders and indicated that the Board was reconsidering the action on September 2 and we would notify them of any changes or cancellation of the RFP immediately following the Board action.

Alderman Smith asked how many bids did we receive on this property.

Mr. MacKenzie answered we have received no bids yet. We have had a preliminary meeting and there are five prospective bidders.

Alderman Smith stated originally it was assessed at \$327,000 and now it is assessed at \$138,000 is that correct.

Mr. MacKenzie responded I believe that is what the Assessors indicated was the assessment.

Mr. Tom Nichols stated the original assessment on the property was \$138,000 and I said \$357,000. After I got done reviewing the property and taking the vacancy factor off the property that brought it up to \$276,000. The original assessment was \$138,000 and not \$357,000.

Alderman Smith asked are these people who got the RFP's aware of the new assessment. When is the bid deadline?

Mr. MacKenzie answered the bid deadline would be September 12.

Alderman Smith asked and you have not received anything yet.

Mr. MacKenzie answered no. We would not request anything yet. These would be sealed proposals that would come into our office on the day of September 12.

Mayor Baines asked didn't the Board as part of that motion reserve the right to reject all bids.

Solicitor Clark answered yes.

Mayor Baines stated we made that very clear because the Board would have the option if the bid...let me clarify that now...

Alderman Gatsas interjected can we ask him if that was in the RFP.

Mayor Baines stated it was supposed to be.

Mr. MacKenzie stated yes. It was requested by the Board and it was done.

Mayor Baines stated so the Board has still protected itself by leaving what you have in place to go forward. If the bids come back...we passed a motion because there were concerns about it and if the bids come back at a certain price and you think we can do better than you can still reject the bids and that would be a decision of a majority of the Aldermen.

Alderman Guinta stated however if Bob MacKenzie met with the five potential bidders and notified them that there might be a change in the minimum bid or a cancellation even number one we could let those people know tomorrow and secondly if the bid comes back and we reject it are we putting ourselves at a disadvantage because this money is supposed to be used for this fiscal year. If we reject them and then go through the whole bid process again we could be in danger of not solidifying this money. If we make the change today we could theoretically have an extra \$150,000 for revenue.

Mayor Baines responded what I would like to do at this point is find out what the Board wants to do. Make your motion for reconsideration and see what happens. I think that is what we need to do.

Alderman Guinta moved for reconsideration. Alderman Gatsas duly seconded the motion.

Mayor Baines called for a vote on the motion to reconsider the issue.

Alderman Lopez stated I would urge my colleagues to vote on on this reconsideration because this has been lingering and lingering.

Alderman O'Neil requested a roll call.

Aldermen O'Neil, Lopez, DeVries, Smith, Thibault, and Pinard voted nay.

Aldermen Shea, Garrity, Forest, Gatsas, Guinta, Sysyn and Osborne voted yea. The motion carried.

Deputy Clerk Johnson stated the Clerk would advise that the motion on the floor is still to issue the RFP at \$750,000. That would be the motion on the floor at this time.

Alderman Guinta moved to amend the committee report.

Alderman DeVries stated I would like to hear from Bob MacKenzie because I don't think he ever addressed properly or did answer at all Alderman Guinta when he said that we could

contact these individuals and still have a deadline of September 12 with this RFP or would we have to reissue the package.

Mr. MacKenzie responded we believe in working with these kind of contracts we could issue an addendum. In discussing this with Solicitor Clark we may want to extend the deadline for perhaps another five days and also put another notice in the newspaper with that addendum. It could extend it five days. We are cutting it very close because we would still have to sign a purchase and sales before October 31 and there would be a lot of work to be done but we could attempt to do that.

Alderman DeVries asked when you weighed in at the last meeting you indicated that you thought the additional amount of money was above market rate and that we would be pushing the minimum bid and possibly preclude anybody from bidding.

Mr. MacKenzie answered I think what I said was that I was comfortable that we could receive reasonable bids at \$750,000. I couldn't guarantee as many proposals at \$900,000. To some extent I think this may be a moot point. We will likely have several bidders and they will probably bid what they consider the fair market value of that property. Since the bidders know that there are several bidders, there are more than three, it is likely that we will get the fair market of that property.

Mayor Baines vetoed the motion to reconsider. I believe the Board has provided the safeguards in there for that issue. I do not personally believe it is fair when we have met with people and the Board has taken action so I am vetoing that vote.

Alderman Shea stated I think that one of the concerns that we had when we drew up the budget was that we depended upon this money coming into the budgetary process in order to "balance the books" so to speak but since we did receive from Alderman Gatsas' work with the Senate a windfall and I don't want to use that term too often here but a windfall in terms of money coming back it is my understanding that we do not need that money as much as we formerly did. Now maybe we do but I am just saying that there isn't a pressing need in my mind.

Alderman Guinta stated I am disappointed in the veto and I will tell you why. I don't think we should use as a litmus test or as a measure to determine minimum bids whether we "need the money." I think we should be setting it with a standard of what is good business practice. What we are doing here is saying well we don't need the money so much or it is not so fair so we will keep it at \$750,000. We just had a 7-6 vote agreeing that we should increase the minimum bid to \$900,000. It currently sits at \$750,000. I just want to be clear that if no bid comes in under or over \$900,000 with five bidders we lost money.

Mayor Baines responded that is not true. I vetoed the reconsideration. I have left the Board with the option of accepted or rejecting the bids so your statement is categorically false because there was no motion on the floor to deal with that issue. The motion was on reconsideration.

Alderman Guinta stated if we reject the bids and then have a new RFP are we going to have enough time for that money to be incorporated into this fiscal year.

Mayor Baines responded again that is going to be a decision of the Board.

Alderman Guinta stated no it is a timing issue.

Mayor Baines responded it will be a timing issue and if I have to call some special meetings we will call some special meetings but I also want to go back to the fact that the Planning Director was very clear that he felt that we were pushing the issue with the \$900,000. That was his professional opinion, not his political opinion that he felt the best options for the City were to keep it at that threshold of \$750,000 and see how the bids came in. That is why we made it very clear that the Board reserved the right to accept or reject any bids. That decision was based upon the professional advice we received from the Solicitor.

Alderman Guinta asked so you are saying it is not fair to change the minimum bid number but it is fair to reject the proposals if you think...

Mayor Baines interjected absolutely.

Alderman Guinta asked well what is the difference.

Mayor Baines answered we passed that as part of the motion and we supported that. Again, we need to move on.

Alderman Guinta moved to override the veto. Alderman Gatsas duly seconded the motion.

Mayor Baines requested a roll call vote. Aldermen O'Neil, Lopez, DeVries, Smith, Thibault, and Pinard voted nay. Aldermen Shea, Garrity, Forest, Gatsas, Guinta, Sysyn, and Osborne voted yea. The motion failed.

Resolution:

“Authorizing the Finance Officer to effect a transfer of Two Thousand Dollars (\$2,000) from Contingency to Civic Contribution.”

On motion of Alderman O'Neil, duly seconded by Alderman Thibault it was voted to read the Resolution by title only and it was so done.

On motion of Alderman O'Neil, duly seconded by Alderman Thibault it was voted that the Resolution pass and be Enrolled.

Alderman O'Neil stated we should recognize our young men who represented the City so well out in Lewiston, North Dakota and did a great job.

Alderman Shea stated usually when a team goes that far into a certain tournament we do honor them. Either the City does by having them come and I think it is appropriate. I think they finished third in the country or fourth. I know that Saugus finished lower than them and the whole City turned out.

Mayor Baines stated we will have the Clerk invite them to the next meeting of the Board.

TABLED ITEM

Request for discontinuance of relating to Millstone Avenue

This item remained on the table.

NEW BUSINESS

Mayor Baines stated you do have before you wording relating to empowering the Special Committee and I will have the City Solicitor who drafted this explain it to the Board and I am going to ask for a vote this evening.

Solicitor Clark stated we were asked to work on some language that would delegate authority to the Special Committee on Baseball/Riverfront Development similar to the delegation of authority to the Special Committee on the Civic Center and how it was handled. This motion would delegate the Board's authority to the Committee to allow them to bind the Board and the City on such matters as construction change orders and enforcing the maximum limit of the prices. It would not give the Committee authority to go ahead and change the major agreement. It would be to oversee the construction and the development and to insure that timely reports are sent back to this Board from the Committee.

Mayor Baines asked so it is the same language that empowered the Special Committee for the Civic Center correct.

Solicitor Clark answered it is based on that, your Honor.

Alderman O'Neil moved to delegate to the Special Committee on Baseball/Riverfront Development all the powers of the Board of Mayor and Aldermen that may be lawfully

delegated and that are consistent with this delegation of power the special committee act on behalf of, and have the power to bind the Board of Mayor and Aldermen with respect to all matters pertaining to the renovation of Gill Stadium and the construction of the riverfront baseball stadium. Alderman Forest duly seconded the motion.

Alderman Gatsas asked have we had any conversation or any word on the vote.

Mayor Baines replied I did call the President of the Eastern League this afternoon and he said he was not prepared at this time and that he would be communicating with me no later than tomorrow morning.

Alderman Gatsas asked in regards to this document if the Eastern League says no is this Committee still standing in effect for renovations to Gill Stadium or do we at that point as a full Board have the understanding that we come back and make decisions at Gill Stadium.

Solicitor Clark answered as presently worded this Committee would still stand moving forward with Gill Stadium unless this Board decided not to have them do it.

Alderman Gatsas stated then I would think we would hold off on this or make a motion to table it until we get an answer from the Eastern League.

Mayor Baines asked why wouldn't we want this special committee to be ready to spring into action tomorrow or the next day or the day after depending on the actions otherwise we are going to have another month of situations. This Committee is, I think, a diverse Committee. It represents all of the different viewpoints and we struggled to get that Committee in place. I would rather rule at this time that I would like to call for a vote to vote up or down on this and let the Committee be prepared to act and if the Board wishes to take an action, let's say at the next Board meeting to pull back because of any developments that happen they could do so at that time but I would rather have this Committee be given the authority so they can start working tomorrow if necessary to advance this project.

Alderman Gatsas stated if the Eastern League does not give their approval and this goes into effect I can tell you I am going to call for a special meeting because there are no documents that we need to follow at that point. I don't think we have any agreements with anybody and I think it behooves this full Board to get their arms around it very quickly.

Mayor Baines responded I agree.

Alderman Gatsas stated I have no problem with this but I will tell you that if we don't get Eastern League approval I am calling for a special meeting so that we can move on Gill Stadium immediately.

Mayor Baines responded again you would not need to call a special meeting. The Mayor will call a special meeting. I can request that.

Alderman Lopez asked, Tom, just to clarify the Special Committee cannot change any agreement whatsoever in reference to finances is that correct.

Solicitor Clark answered they can't amend the management agreement or the leases without coming back to the Board.

Mayor Baines called for a vote on the motion. There being none opposed, the motion carried.

Alderman Pinard stated I sent out a letter to the Board of Aldermen about the 9/11 ceremony. We are going to have it at Lake Massabesic where we have the tree lighting ceremony and so on. There was a flagpole donated to the City at a cost of approximately \$4,000 and when that came about I suggested that Lake Massabesic would be an ideal place to put the flagpole. We agreed and the flagpole is up. I then took it upon myself to have a ceremony for 9/11. I had Elmer Pease of PD Associates come forward and pay for the cement for the flagpole. It is 8' deep so it won't move. I got the okay from the NH DOT. Anyhow there is going to be a plaque on a stone that will be dedicated to all who perished at the World Trade Center on 9/11/01 and to honor all who defend our country – past, present and future. Invited guests are Mayor Baines, Governor Craig Benson, Congressmen, the US Attorney, Tom Colantuono will give a brief remark, which I think this is only proper because the New York disaster was taken over by the US Attorney General. The ceremony will start at approximately 8 AM or 8:15 AM. I ask all color guards who may be watching. We have the two chapters of the Fire Department and the Manchester Police Department. We have the honor guard of the Police and Fire Department. We are going to have a US Marine raise the flag. Chief Kane has a ceremony and protocol of the disaster where he rings a bell so many times in so many seconds. You are all invited. I think it is an honor to the City to have that at Massabesic Lake at the rotary that brings in everything from the seacoast to the north and the south. It will be a memento for years to come. Your Honor, you will be able to make a few remarks. I ask the Aldermen if they are not working...I ask everybody in the City who has a loved one in Iraq...I have a nephew who is there with that special force. I know that a lot of you people have loved ones over there now. If you can make it, be down at the rotary around 8:15 AM. I invite everybody from fire departments across the state. This is going to be a very memorable day.

Mayor Baines stated I would like to commend Alderman Pinard for his effort and I am looking forward to participating in that wonderful ceremony.

Alderman DeVries stated I do have an item that I want to have passed out here. This is an item of new business that I am bringing up. Briefly, I believe there is still an opportunity for

us to achieve some efficiencies in the improvements at the Memorial High School Clem Lemire field. The efficiencies and monies that can be saved would be by allowing this project, which is currently funded through our CIP as an independent project to be done in conjunction with the School Facilities Improvement Plan. We have two construction crews currently planned to be working over the course of the next several years. One at Southside Junior High to the west of the field and one at Memorial High School to the east of the field. These are both major addition projects. I believe if we are able to and this is purely requesting that we do the background with the School Department and the appropriate City departments and if we are able to tie this into the design-build for the school improvements that there are many economies that can be made. I have outlined a few of them within the letter. I think that simply by not having to mobilize the construction crew separately or mobilize it on multiple years because they are trying to coordinate with the other facilities we can capture some savings. Utilizing the existing crews there should allow us some efficiencies and some savings. What I am asking the Board to do is support me at this point in time, that we ask Finance and Highway in conjunction with the City Solicitor and Parks & Recreation to initiate the necessary discussion with the School District. This is not committing us to anything at this point in time. I am asking that they report back to the CIP Committee and that it be done quickly so that it will not hold up the project that Parks & Recreation is going forward with because I think they are about to go out to bid independently.

Alderman DeVries moved to approve the request. Alderman Lopez duly seconded the motion.

Alderman Gatsas stated I don't have a problem with this proposal. As a matter of fact, I would like to broaden that motion by taking the \$600,000+ that the District paid for building plans or building permits...take that money and put it into this project rather than have it come to the City. If we are bonding that money then we should take it out of there. It was not a revenue that we anticipated for revenues on the budget. We should take that money and I think it was probably foolish that we even bonded \$600,000+ over a 20 year period because we are paying for that with bonding capacity and it doesn't make any sense but if that is what we are doing then we should take the money out of those permit funds and apply it to this field.

Mayor Baines stated I think we have a response from the Finance Officer as to why that is necessary.

Mr. Clougherty stated I understand what you are talking about. The reason that you have the permit fees included in the project is so that those appropriate and prorated shares can be included in what we charge the surrounding towns and the burden for the permits are not resting on the taxpayers of the City. We will be happy to go back and look at any alternatives but I wouldn't guarantee that it would change.

Mayor Baines stated again that is an issue that needs to be looked at. I think at this point we can just deal with Alderman DeVries's motion and have that researched a little bit by the City Solicitor and the Finance Officer.

Alderman Gatsas asked why can't I make the motion that we take that from the Building Department and apply it to the field. It was not funds that we anticipated.

Mayor Baines responded because you are doing an appropriation.

Alderman Gatsas stated no we are not.

Mayor Baines stated I don't think we should be dealing with these things just at a Board meeting without having the staff that is charged...especially the City Solicitor in terms of looking at whether or not we can do things like that. That is why we have a City Solicitor and a Finance Officer.

Mr. Clougherty stated it is a revenue versus an appropriation issue and it is not appropriate.

Mayor Baines stated my ruling is that that issue needs to be reviewed by staff. We are going to call for a vote on the motion by Alderman DeVries. There being none opposed, the motion carried.

Mayor Baines stated I do have a picture of a new arrival, a new citizen in our City by the name of Colby Guinta. I would like to publicly congratulate Mr. & Mrs. Guinta for bringing a new citizen forward in the City of Manchester and I wish you many years of health and happiness and remember that babies become teenagers so congratulations.

Alderman O'Neil stated you seemed to leave out a middle name there for those of us of Irish descent.

Mayor Baines asked could you tell me how to pronounce that middle name, Alderman Guinta.

Alderman Guinta answered it is Kenmare.

Alderman Osborne moved to nominate John Trisiciani to succeed himself as a member of the Manchester Transit Authority, term to expire May 2008. Alderman Pinard duly seconded the motion. Mayor Baines called for a vote. There being none opposed, the motion carried.

Alderman Osborne moved to suspend the rules and confirm the appointment of John Trisciani to the Manchester Transit Authority. Alderman Thibault duly seconded the motion. Mayor Baines called for a vote. There being none opposed, the motion carried.

Communication from the Chief Negotiator requesting to meet with the Board for a negotiation strategy session.

On motion of Alderman Pinard, duly seconded by Alderman Shea, it was voted to recess the meeting for a negotiation strategy session.

Mayor Baines called the meeting back to order.

There being no further business, on motion of Alderman Smith, duly seconded by Alderman Thibault, it was voted to adjourn.

A True Record. Attest.

City Clerk